



भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.-०४०१२०२३-२४१६६४
CG-DL-E-04012023-241664

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 24] नई दिल्ली, शुक्रवार, दिसम्बर 9, 2022/अग्रहायण 18, 1944 (शक)
No. 24] NEW DELHI, FRIDAY, DECEMBER 9, 2022/AGRAHAYANA 18, 1944 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 9th December, 2022:—

I

BILL NO. II OF 2020

A Bill to provide for the constitution of the National Inspection and Investigation Committee for preparation of Uniform Civil Code and its implementation throughout the territory of India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Uniform Civil Code in India Act, 2020.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Uniform Civil Code” means the common civil code or common law for every citizen residing in India irrespective of religion and caste.

(b) "Committee" means the National Inspection and Investigation Committee constituted under section 3; and

(c) "prescribed" means prescribed by rules made under this Act.

Constitution
of the
National
Inspection and
Investigation
Committee.

3. (1) The Central Government shall, within a period of six months from the coming into force of this Act, constitute a Committee to be known as the National Inspection and Investigation Committee for the purpose of preparation of Uniform Civil Code and its implementation in the country.

(2) The Committee shall consist of—

(a) a Chairperson, who shall be a retired Chief Justice of India to be nominated by the Central Government in such manner, as may be prescribed;

(b) the Union Minister of Home Affairs-*ex-officio* member;

(c) the Union Minister of Law and Justice-*ex-officio* member;

(d) two members who are retired Chief Justices of the High Courts, to be nominated by the Central Government in such manner, as may be prescribed;

(e) one member, to be nominated by the Central Government in such manner, as may be prescribed, from amongst persons of eminence having adequate knowledge and experience in law;

(f) one member, to be appointed by the Central Government in such manner, as may be prescribed, from amongst officers of the Indian Administrative Service-*ex-officio* Secretary.

(3) The Chirperson and the member of the Committee shall hold office for a period of three years.

(4) The Salary and allowances payable to and other terms and conditions of the Chairperson and other members shall be such as may be prescribed.

(5) The Central Government shall provide such number of Officers and staff to the Committee, as may be necessary, for its efficient functioning.

(6) The Committee shall have the power to regulate its own procedure.

Functions of
the
Committee.

4. (1) It shall be the duty of the Committee to take such steps, as it may deem appropriate, for the codification and implementation on the Uniform Civil Code in the country.

(2) Without prejudice to the generality of the foregoing provision, the Committee shall ensure:—

(a) the implementation of Uniform Civil Code in entire geographical territory of India;

(b) the applicability of the Uniform Civil Code for marriage, divorce, succession, adoption, guardianship and partition of land and assets on all citizens without any discrimination;

(c) right to equality before law as guaranteed under article 14 and prohibition of discrimination of any citizen on grounds of religion, race caste, sex or place of birth provided under article 15 of the Constitution;

(d) gender equality in implementation of the Uniform Civil Code; and

(e) substitution of the personal laws or laws based on religious texts and traditions by Uniform Civil Code.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Committee for carrying out the purposes of this Act.

Central
Government
to provide
adequate funds
to the
Committee.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provision of this Act, as may appear to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

7. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have
overriding
effect.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, While it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In 1840, on the basis of *Lex Loci* Report, Uniform Law was framed for crimes, evidences and contract but some personal laws of the Hindus and the Muslims were left out. On the other hand, the British Indian Judiciary had facilitated uniform application by the British Judges under the English Laws. Besides, in those days many social reformers were voicing to make laws to do away with the discrimination against women done under the *Sati* and other religious customs.

In the Constituent Assembly, while on the one hand there were people like Dr. B.R. Ambedkar who desired reform in the society and wanted to accept the Uniform Civil Code, there were also Muslim representatives who took side to retaining the Personal Laws based on religious enshrines. As a result, regarding the Uniform Civil Code, only one line could be added as article 44 under Part IV as Directive Principles of State Policy in the Constitution. In this article it is stated that the State shall endeavour to secure for citizens a Uniform Civil Code throughout the territory of India. Since the Uniform Civil Code has been included in the Directive Principles of State Policy of the State, hence this cannot be enforced.

Besides, no Government showed proper will power to implement these constitutional provisions, because the minorities, especially the Muslims believed that the Uniform Civil Code will lead to the violation of their personal laws. Hence, only to compile the Hindu Laws, the Acts like the Hindu Marriage Act, 1955, the Hindu Succession Act 1956, the Hindu Minority and guardianship Act, 1956 and the Hindu Adoptions and Maintenance Act, 1956 were enacted. In these Acts along with the Buddhist, Sikh, Jain, laws related to different religious communities of the Hindus are included *vide* which women have been given right to divorce and succession and caste has been termed irrelevant for marriage. Also, polygamy has been done away with.

In the present context, it seems our country is divided into three classes on Uniform Civil Code, namely political, social and religious. In the *Shah Bano Case*, the Supreme Court decided that section 125 of the Code of Criminal Procedure 1973 is applicable to all irrespective of religion, caste or community. The court directed that *Shah Bano* must be provided with living expenses. The then Chief Justice Y.V. Chandrachud said that Uniform Civil Code would end the dissimilarities in the Indian law which would help in establishing national unity. Hence, the Supreme Court had observed that the Parliament may make law related to the Uniform Civil Code.

Sarla Mudgal Case vs. the Union of India is the second example *vide* which the Supreme Court under article 44 had again directed the Government. The Supreme Court said that adopting Islam for marriage is a misuse of the personal laws. It said that a Hindu marriage can be dissolved only under the Hindu Marriage Act, 1955 which means after adopting Islam the marriage done thereafter cannot be dissolved under the Hindu Marriage Act and it is a crime under section 494(5) of the Indian Penal Code.

In *John Vellamettam vs. Union of India*, the Supreme Court declared the section 118 of the Indian Succession Act, 1925 as unconstitutional. The then Chief Justice of India Justice Khare observed that “it is mentioned in article 44 that the State will strive to provide Uniform Civil Code to all citizens in its entire territory, but it is a matter of regret that article 44 has not been given effect to. He also opined that a Uniform Civil Code would help the cause of national integration by removing the contradictions on the grounds of ideologies.

The decision to implement the Juvenile Justice (Care and Protection of Children) Act seems to be a step towards Uniform Civil Code since this Act permits the people of Muslim community to adopt children whereas Muslims are not permitted or allowed to adopt children under their personal laws. Recently, the Supreme Court has again asked the Government to implement the Uniform Civil Code so as to end gender inequality and wrong traditions prevalent under the personal laws.

Under the Uniform Civil Code a collection of laws will be prepared which will protect the personal rights of all citizens without considering the religion, which seems to be the need of the hour. In reality this is the foundation stone of secularism. Such progressive reforms will not only help to end discrimination against women but also help in strengthening the secular structure and encourage integrity. In fact our social system is replete with injustice, discrimination and corruption which is in conflict with our fundamental rights, hence it needs to be reformed. Already there is Penal Code in our country which is equally applicable to all without considering the religion, caste and domicile. But there is no uniform law in our country with regard to divorce and succession and these subjects are controlled by the personal laws. Hence the Uniform Civil Code should be ensured to all citizens residing in areas where the population of entire geographical area resides.

Hence, this Bill.

KIRODI LAL MEENA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the National Inspection and Investigation Committee. It also provides for the salary and allowances of the Chairperson, members, officers and staff of the Committee. Clause 5 provides that the Central Government shall provide adequate funds to the Committee. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore would be involved from the Consolidated Fund of India per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules relate to matters of detail only, the delegation of legislative power is of a normal character.

II

BILL NO. L OF 2022

A Bill to establish and incorporate a teaching University for the promotion and development of Kannada language and literature, through teaching and research, with a view to enabling Kannada to achieve greater functional efficiency and recognition as a major international language and to provide for matters connected therewith or incidental thereto.

Be it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Antarrashtriya Kannada Vishwavidyalaya Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, and the statutes made hereunder, unless the context otherwise requires,—

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

- (c) "Board of Studies" means the Board of Studies of the University;
- (d) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;
- (e) "Court" means the Court of the University;
- (f) "Department" means a Department of Studies and includes a Centre of Studies;
- (g) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;
- (h) "employee" means any person appointed by the University, and includes teachers and other staff of the University;
- (i) "Executive Council" means the Executive Council of the University;
- (j) "Finance Committee" means the Finance Committee of the University;
- (k) "Hall" means a unit of residence or of corporate life for the students of the University, or of an Institution maintained by the University;
- (l) "Institution" means an academic institution, not being a College, maintained by the University;
- (m) "recognised Institution" means an institution of higher learning recognised by the University;
- (n) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;
- (o) "School" means a School of Studies of the University;
- (p) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University for the time being in force;
- (q) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any Institution maintained by the University and are designated as teachers by the Ordinances;
- (r) "University" means the Antarrashtriya Kannada Vishwavidyalaya established and incorporated as a University under this Act.

3. (1) There shall be established a University by the name of "Antarrashtriya Kannada Vishwavidyalaya".

Establishment
of the
University.

(2) The headquarters of the University shall be at Belgaum.

(3) The first Chancellor and the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Antarrashtriya Kannada Vishwavidyalaya".

(4) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

4. The objects of the University shall be:—

Objects of the
University.

(i) to promote and develop Kannada language and literature in general and, for that purpose, to provide for instructional and research facilities in the relevant branches of learning;

(ii) to provide for active pursuit of comparative studies and research in Kannada and other Indian languages; to create facilities for development and dissemination of relevant information in the country and abroad;

(iii) to offer programmes of Research, Education and Training in areas like translation, interpretation and linguistics for improving the functional effectiveness of Kannada;

(iv) to reach out to Kannada scholars and groups interested in Kannada abroad and to associate them in teaching and research and to popularize Kannada through distance education system.

5. The University shall have the following powers, namely:—

(i) to provide for instructions in the relevant branches of learning and to make provision for the advancement and dissemination of knowledge for furtherance of its objects;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing on, persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extra-mural studies, training and extension services;

(iv) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(v) to provide for facilities through distance education system to such persons as it may determine;

(vi) to institute Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Professorships, Readerships, Lecturerships or other teaching or academic positions;

(vii) to recognise, with the prior approval of the Visitor, an institution of higher learning, within or outside India for such purposes as the University may determine and to withdraw such recognition;

(viii) to appoint persons working in any other University or organisation as teacher of the University for a specified period;

(ix) to create administrative, ministerial and other posts and to make appointments thereto;

(x) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determine;

(xi) to establish, with the prior approval of the Visitor, such campuses, special centres and specialised laboratories, within or outside India, as are, in the opinion of the University, necessary for the furtherance of its objects;

(xii) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xiii) to establish and maintain Institutions and Halls;

(xiv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

- (xv) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;
- (xvi) to make special arrangements in respect of the residence, discipline and teaching of women students as the University may consider desirable;
- (xvii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;
- (xviii) to confer autonomous status on a Department, in accordance with the Statutes;
- (xix) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;
- (xx) to demand and receive payment of fees and other charges;
- (xxi) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;
- (xxii) to lay down conditions of service of all categories of employees, including their code of conduct;
- (xxiii) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;
- (xxiv) to make arrangements for promoting the health and general welfare of the employees;
- (xxv) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;
- (xxvi) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;
- (xxvii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

6. The jurisdiction of the University, in exercise of its powers, shall extend to the whole of India.

Jurisdiction.

7. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or to be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

8. The University shall, primarily, be a residential University:

Residence of students.

Provided that the requirements of residence shall be regulated in such manner as may be prescribed by the Ordinances.

9. (1) The President of India shall be the Visitor of the University.

The Visitor.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including any Institution managed by it, and to submit a report thereon; and upon receipt of that report the Visitor may, after obtaining the views of

University to be open to all classes, castes and creeds.

the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories and equipment and of an Institution and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (2), give notice of his intention to cause an inspection or inquiry to be made to the University and the University shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any Institution, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Executive Council shall communicate, through the Vice-Chancellor, to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(9) Where, the Executive Council does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(10) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(11) The Visitor shall have such other powers as may be prescribed by the Statutes.

Officers of
the
University.

10. The following shall be the officers of the University:—

- (i) the Chancellor;
- (ii) the Vice-Chancellor;
- (iii) the Pro-Vice-Chancellor;
- (iv) the Deans of Schools;
- (v) the Registrar;
- (vi) the Finance Officer;
- (vii) the Librarian; and

(viii) such other officers as may be declared by the Statutes to be officers of the University.

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

The Chancellor.

(2) The Chancellor shall, by virtue of his office, be the head of the University.

(3) The Chancellor shall, if present, preside at the convocation of the University held for conferring degrees and the meetings of the Court.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner and on such terms and conditions of service as may be prescribed by the Statutes.

The Vice-Chancellor.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matters:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

13. The Pro-Vice-Chancellor shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Pro-Vice-Chancellor.

14. Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Deans of Schools.

15. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

The Registrar.

(2) The Registrar shall have the power to enter into agreement, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

16. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Finance Officer.

17. The Librarian shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Librarian.

18. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Other officers.

Authorities of
the
University.

19. The following shall be the authorities of the University:—

- (i) the Court;
- (ii) the Executive Council;
- (iii) the Academic Council;
- (iv) the Board of Studies;
- (v) the Finance Committee; and
- (vi) such other authorities as may be declared by the Statutes to be the authorities of the University.

The Court.

20. (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

- (a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;
- (b) to advise the Visitor in respect of any matter which may be referred to it for advice; and
- (c) to perform such other functions as may be prescribed by the Statutes.

The
Executive
Council.

21. (1) The Executive Council shall be the principal executive body of the University.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

The Academic
Council.

22. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, exercise general supervision over the academic policies of the University.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

The Board of
Studies.

23. The constitution, powers and functions of the Board of Studies shall be prescribed by the Statutes.

The Finance
Committee.

24. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

Other
authorities of
the
University.

25. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Power to
make
Statutes.

26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

- (a) the constitution, powers and functions of the authorities and other bodies of the University, as may be constituted from time to time;
- (b) the appointment and continuance in office of the members of the said authorities and bodies, filling up of vacancies of members and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;
- (c) the appointment, powers and duties of the officers of the University and their emoluments;
- (d) the appointment of teachers, academic staff and other employees of the University, their emoluments and other conditions of service;

- (e) the appointment of teachers and academic staff working in any other University or organisation for specific period for undertaking a joint project;
- (f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;
- (g) the principles governing the seniority of service of the employees of the University;
- (h) the procedure for arbitration in cases of dispute between employees or students and the University;
- (i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;
- (j) the conferment of autonomous status on an Institution or a Department;
- (k) the establishment and abolition of Schools, Departments, Centres, Halls and Institutions;
- (l) the conferment of honorary degrees;
- (m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (n) the institution of fellowships, scholarships, studentships, medals and prizes;
- (o) the delegation of powers vested in the authorities or officers of the University;
- (p) the maintenance of discipline among the employees and students;
- (q) all other matters which by this Act are to be or may be provided for by the Statutes.

27. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power to make Ordinances.

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;
- (f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (h) the conditions of residence of the students of the University;
- (i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and prescribing of special courses of studies for them;
- (j) the appointments and emoluments of employees other than those for whom provision has been made in the Statutes;

(k) the establishment of Centres of Studies, Board of Studies, Special Centres, Specialised Laboratories and other Committees;

(l) the manner of co-operation and collaboration with other Universities, Institutions and other agencies including learned bodies or associations in India or abroad;

(m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(o) the management of Institutions established by the University;

(p) setting up of a machinery for redressal of grievances of employees; and

(q) all other matters which, by this Act or the Statutes, are to be or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

Regulations.

28. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Annual Report.

29. (1) The annual report of the University shall be prepared under the direction of the Executive Council which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects, and shall be submitted to the Visitor on or before such date as may be prescribed by the Statutes.

(2) A copy of the annual report, as prepared under sub-section (1) shall also be submitted to the Central Government which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual Accounts.

30. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Visitor along with the observations of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Executive Council and the views of the Executive Council, if any, on such observation shall be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, who shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

Conditions of service of employees.

31. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

32. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examination of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

Procedure of appeal and arbitration in disciplinary cases against students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2) and (3) of section 32 shall, as far as may be, apply to a reference made under this sub-section.

33. Every employee or student of the University or Institution shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of Institution, as the case may be, and thereupon, the Executive Council may confirm, modify or reverse the decision appealed against.

Right to appeal.

34. (1) The University shall constitute for the benefit of its employees such provident fund or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Provident and pension funds.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provision of the Provident Funds Act, 1925 shall apply to such fund, as if it were a Government provident fund.

35. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Disputes as to constitution of University authorities and bodies.

36. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Constitution of Committees.

37. All casual vacancies among the members (other than *ex-officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opted the member whose place has become vacant and any person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Filling of casual vacancies.

38. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of University authorities or bodies not invalidated by vacancies.

Protection of action taken in good faith.

Mode of proof of University record.

Power to remove difficulties.

Transitional provisions.

Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

39. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

40. A copy of any receipt, application, notice, order, proceeding, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force.

1 of 1872.

41. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

42. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Chancellor shall be appointed by the Visitor and the said officer shall hold office for a term of five years;

(b) the first Vice-Chancellor shall be appointed by the Visitor in such manner and on such conditions as may be deemed fit and the said officer shall hold office for such term, not exceeding five years as may be specified by the Visitor;

(c) the first Registrar and the first Finance Officer shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(d) the first Court and the first Executive Council shall consist of not more than thirty members and eleven members respectively who shall be nominated by the Visitor and they shall hold office for a term of three years;

(e) the first Academic Council shall consist of not more than twenty-one members who shall be nominated by the Visitor and shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held that office, if such vacancy had not occurred.

43. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but not retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the Interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

STATEMENT OF OBJECTS AND REASONS

Kannada is the official language of Karnataka state situated in the southern part of India and is the second oldest language of the Dravidian language family. It is the 27th most spoken dialect in the world with around 35 million speakers in the world. Kannada as a language demonstrates and broadcasts vast cultural heritage and culture. Kannada is one of the oldest languages of India and is considered to be one of the most important languages in the country.

In the Indian context, language plays a major role in communication and dialect, in order to understand the region, the tourist and people should be aware of the regional language. Sometimes, language also becomes a barrier in order to understand something. Kannada as a language will not only help in promoting tourism but it will be a great source of promoting the dialect and culture and heritage of Karnataka and the culture and heritage of Karnataka across other countries. Kannada language and literature should be ingrained in people, who are very intrigued about studying the language. It provides them with a great source of knowledge in general and also will provide instructional and research facilities for the relevant branches of learning in the Kannada language. This will help in promoting the language and also attract students globally to pursue a career in Kannada, literature and culture, and art of it.

The Bill will help in the promotion and development of accommodating dynamic quest for comparative studies of languages and research in Kannada along with other Indian dialects. The Bill seeks to establish a university that will provide high-level research in Kannada language, literature, and culture. It aims to impart training to those residing within and beyond India who desire to study the Kannada language, literature, culture, and other allied subjects.

The Bills seeks to provide for research on ancient Kannada literature in every field keeping in view the likely future scientific developments, it also aims to develop Kannada as a language of modern knowledge and medium instruction. The Bill seeks to provide for research and determine the procedures regarding the development of the kannada language embodying in itself all the educational fields existing in the developing world and evolving suitable approaches, therefore. The University will help in setting the facilities for the outsourcing and development of relevant information not only within the country but also abroad. It will help to offer programs in respective field research, education, and training in sphere-like translation, interpretation, and linguistics for improving the functional effectiveness of Kannada. The Bill seeks to reach out to Kannada scholars and groups who are in quest of teaching Kannada abroad and to associate them in teaching and research in order to disseminate and broadcast Kannada through various platforms and forums.

Hence, the Bill.

IRANNA KADADI.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish the University, namely, the Antarrashtriya Kannada Vishwavidyalaya with such object and powers and functions as delineated in clause 4 and clause 5 respectively.

Clause 34 of the Bill provides for payment of pension and provident fund for the benefit of its employees or provide such insurance schemes as it may deem fit. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees two-hundred crore per annum would be involved from Consolidated Fund of India.

A non recurring expenditure of rupees fifty crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 26, 27 and 28 of the Bill empowers the University to make regulations, statutes and ordinances for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of normal character.

III

BILL NO. LXXIV OF 2022

A Bill to empower the State Governments and the Central Government to take measures to provide for the prevention and control of hate crimes and hate speech in terms of the Constitution and international human rights instruments concerning religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe and related intolerance, in accordance with Constitutional and international law obligations; define for the offence of hate crime and the offence of hate speech and the punishment of persons who commit those offences and rehabilitation of victims of those offences; to provide for the reporting on the implementation, application and administration of this Act; and to provide for matters connected therewith or incidental thereto.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

Preliminary

- 1. (1)** This Act may be called the Hate Crimes and Hate Speech (Combat, Prevention and Punishment) Bill, 2022. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. (1) In this Act, unless the context otherwise requires—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government.

(b) "Code" means the Code of Criminal Procedure, 1973.

2 of 1974.

(c) "Communication" includes any—

(i) display;

(ii) written, illustrated, visual or other descriptive matter;

(iii) oral statement;

(iv) representation or reference; or

(v) an electronic communication, and "communicates" and "communicated" shall have a corresponding meaning;

(d) "competent authority" means such officer or authority as the appropriate Government may, by notification, appoint as the competent authority under sub-section (2) of section 9;

(e) "data" means electronic representations of information in any form as defined under clause (o) of sub-section (1) and section 2 of the Information Technology Act, 2000;

21 of 2000.

(f) "data message" means data generated, sent, received or stored by electronic means;

(g) "electronic record" means electronic record as defined under clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;

21 of 2000.

(h) "electronic communication" means a communication by means of data messages;

(i) "electronic communications system" means any electronic communications infrastructure or facility used for the conveyance of data;

(j) "harm" means any emotional, psychological, physical, social or economic harm;

(k) "hate crime" has the meaning assigned to it in terms of sub-section (1) of section 3;

(l) "hate speech" has the meaning assigned to it in terms of sub-section (1) of section 5;

(m) "information" includes data, message, text, images, sound, voice, codes, computer programmes software and databases or microfilm or computer generated microfiche;

(n) "intermediary", with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes broadcast channels, telecom service providers, network service providers, internet service providers, web-hosting service providers, social media platforms, search engines, online payment sites, online-auction sites, online-marketplaces and cyber cafes;

(o) "notification" means a notification published in the Official Gazette;

45 of 1860.
2 of 1974.

(p) "prescribed" means prescribed by rules made under this Act;

(q) "victim" means a person, including a juristic person, or group of persons, against whom an offence referred to in section 3 or section 4 of this Act has been committed.

(2) The words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860 or the Code of Criminal Procedure, 1973 shall have meaning respectively assigned to them in those Acts.

CHAPTER II

OFFENCE OF HATE CRIMES AND HATE SPEECH

3. (1) Any person who harms or incites harm or promotes or propagates hatred bring out of his prejudice against or intolerance towards any other person because of one or more of the following characteristics or perceived characteristics of the victim or his or her family member or the victim's association with, or support for, a group of persons who share anyone or more of such characteristics:

Offence of
hate crime.

- (a) religion,
- (b) race,
- (c) caste or community,
- (d) sex,
- (e) gender,
- (f) sexual orientation,
- (g) place of birth,
- (h) residence,
- (i) language,
- (j) disability, or
- (k) tribe

shall be guilty of an offence of hate crime.

4. (1) Whoever commits a hate crime shall be punished with imprisonment for a term which may extend to three years or fine upto five thousand rupees or both.

Punishment of
hate crime.

(2) An offence of hate crime shall be non-cognizable and non-bailable and shall be triable by magistrate of the first class.

5. (1) Any person:—

(a) who intentionally publishes, propagates or advocates anything or communicates to one or more persons in a manner that could reasonably be construed to demonstrate a clear intention to harm or incite harm or promote or propagate hatred, based on one or more of the following grounds:

Offence of
hate crime.

- (i) religion,
- (ii) race,
- (iii) caste or community,
- (iv) sex,
- (v) gender,
- (vi) sexual orientation,
- (vii) place of birth,

- (viii) residence,
- (ix) language,
- (x) disability, or
- (xi) tribe; or

(b) who intentionally distributes or makes available an electronic communication which that person knows constitutes hate speech as referred in clause (a) through an electronic communications system which is—

- (i) accessible by any member of the public; or
- (ii) accessible by, or directed at, a specific person who can be considered to be a victim of hate speech; or

(c) who intentionally, in any manner whatsoever, displays any material or makes available any material which is capable of being communicated any which that person knows constitutes hate speech as referred in clause (a), which is accessible by, or directed at, a specific person who can be considered to be a victim of hate speech, shall be guilty of an offence of hate speech.

(2) The provisions of sub-section (1) shall not apply in respect of anything done as referred in sub-section (1), if it is done in the course of engagement in—

(a) any *bona fide* artistic creativity, performance or other form of expression, to the extent that such creativity, performance or expression does not advocate hatred that constitutes incitement to cause harm, based on one or more of the grounds referred to in clause (a) of sub-section(1),

(b) any academic or scientific inquiry; fair and accurate reporting or commentary in the public interest or in the publication of information, commentary, advertisement or notice; or the *bona fide* interpretation and proselytisation or espousing of any religious tenet, belief, teaching, doctrine or writings, to the extent that such interpretation and proselytisation does not advocate hatred that constitutes incitement to cause harm, based on one or more of the grounds referred to in clause (a) of sub-section (1).

6. (1) Whoever who commits hate speech shall be punished with imprisonment for a term which may extend to three years or fine up to five thousand rupees or both.

(2) An offence of hate crime shall be non-cognizable and non-bailable and shall be triable by magistrate of the first class.

CHAPTER III

AID, ABET OR OTHERWISE ASSISTANCE FOR COMMITTING HATE CRIME OR HATE SPEECH

7. (1) Whoever knowingly or unknowingly believes that commission or omission of any other person would be an offence under the provisions of this Act, with intent and thereby aids, abets or otherwise gives that other person any assistance for such offence, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine or both:

Provided that an act or omission had a substantial effect on the commission a crime is a fact based inquiry:

Provided further that the aider and abettor's conduct may occur in a location remote from the scene of the crime.

(2) Any intermediary who knowingly or unknowingly or due diligently believes that commission or omission of any other person would be an offence under the provisions of

Punishment
for hate
speech.

Punishment
for aiding,
abetting or
assisting for
committing
hate crime or
hate speech.

this Act, provide their platform to commit such offence, shall be punished with imprisonment of either description for a term, which may extend to three years, and shall also be liable to fine or both.

(3) Whoever knowingly or unknowingly believe or has reasonable cause to believe that commission or omission of any other person would be an offence under the provisions of this Act, expends or supplies any money in furtherance or in support of an act which is an offence under this Act, shall be punished with imprisonment of either description for a term, which may extend to three years, and shall also be liable to fine or both.

CHAPTER IV

VICTIM IMPACT ASSESSMENT

8. The prosecution, when adducing evidence or addressing the court on sentence in respect of an offence under this Act, consider the interests of a victim of the offence and the impact of the offence on the victim and, where practicable, furnish the court with a victim impact statement.

Victim impact assessment.

Explanation.—For the purposes of this section, a victim impact statement means a sworn statement or affirmation by a victim or someone authorised by a victim to make such a statement on his behalf, which contains the physical, psychological, social, economic or any other consequences of an offence under this Act for a victim and family member or associate of a victim.

CHAPTER V

PREVENTION OF ACTS LEADING TO HATE CRIME AND HATE SPEECH

9. (1) Notwithstanding anything contained in the Code, whenever the District Magistrate has reason to believe that in any area within his jurisdiction, a situation has arisen where there is an apprehension of breach of peace or creation of discord between members of different groups, castes or communities due to commission of offence under the provisions of this Act, he may, by order in writing, prohibit any act which in his opinion is likely to cause apprehension in the minds of another community or caste or group that it is directed to intimidate, threaten or otherwise promote ill-will against that community or caste or group.

Prevention of acts leading to hate crime and hate speech.

(2) A competent authority, appointed by the appropriate Government by notification, in any area within his jurisdiction, may by order in writing,—

(a) direct the conduct of any assembly or procession in any place or street and specify by general or special notice, if any, by which and the times at which, such procession may or may not pass;

(b) require, by general or special notice, on being satisfied that any person or class of persons intend to convene or collect a assembly or an procession in any place or street or to form an assembly or procession which would in his judgment, if uncontrolled, is likely to cause a breach of peace due to commission of offence under the provisions of this Act, that the person convening or collecting such assembly or procession or directing or promoting such assembly or procession shall not do so without applying for and obtaining a permission to this effect; and

(c) prohibit or regulate the use of loudspeaker, music or sound amplifier or any other instrument inducing noise in any street or public place or procession, or in any private place or procession, if the use of which may cause commission of offence under the provisions of this Act.

(3) An order under this section shall remain in force for such period as may be specified or thirty days, whichever is less:

Provided that if the appropriate Government, after reviewing the effect of the order, considers it necessary for the preservation of peace or harmony between different groups, castes or communities or public safety or maintenance of public order in such area, may, by notification, direct that the order issued under this section shall remain in force for such further period not exceeding sixty days from the date of the first order.

CHAPTER VI

AWARENESS, EDUCATION AND TRAINING

Awareness, education and training to prohibit hate crime and hate speech.

10. (1) The appropriate Government shall have the duty to promote awareness among public for the prohibition, prevention and combating of hate crimes and hate speech.

(2) In performance of the duty referred to in sub-section (1), the appropriate Government may perform such functions which shall include, but not be limited to—

(a) conducting education and information campaigns to inform the public about the prohibition against hate crime and hate speech, aimed at prevention and combating of such offences;

(b) ensuring that all public officials who may be involved in the investigation and prosecution of hate crimes and hate speech are educated and informed of the provisions against such offences;

(c) providing assistance and advice to any person who wants to lodge a complaint of a hate crime or hate speech; and

(d) training public officials on the prohibition, prevention and combating of hate crimes and hate speech, and such training shall include social context training.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the appropriate Government may recommend to the National Human Rights Commission or the State Human Rights Commission, as the case may be, to perform the functions referred to in sub-section (2).

(4) The National Judicial Academy of India, Bhopal shall develop and implement training courses, including social context training courses for judicial officers for purposes of presiding in court proceedings, in connection with offences under this Act.

CHAPTER VII

MISCELLANEOUS

Protection of action done in good faith.

11. No suit, prosecution or other legal proceedings shall lie against any officer or authority of the appropriate Government for an act which is done or intended to be done in good faith under this Act or the rules made thereunder.

Act not in derogation of any other law.

12. Save as otherwise provided, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force except to the extent the provisions of other law are inconsistent with the provisions of this Act.

Power to make rules.

13. (1) The Central Government may, by notification, in the Official Gazette make rules for carrying out the provisions of this Act.

(2) Every rule made under this section.

STATEMENT OF OBJECTS AND REASONS

The Preamble of the Constitution of India, set out founding principles and values, among others, of individual and collective dignity with a sense of equality for all, which shall help the Republic in achieving unity and integrity of its people. *Samanvay* (harmony) and *Sadbhavna* (compassion for one another) are one of the oldest teachings of the Indian civilization. Nonetheless, lately, due to narrow political, social and economic prejudices and benefits, individuals or groups of people have created nuisance and intolerance on the basis of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe against each other.

The Constitution of India, under article 19 (1), gives everyone the right to freedom of expression. This right is, however, limited in that it does not extend to breach sovereignty and integrity of the country, and decency and morality based on religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe, among others. A specific legislation is required with a view to empower the State Governments and the Central Government to take effective measures to combat, prevent and punish the conduct of the person constituting hate crimes and hate speech.

Hence, this Bill.

PROF. MANOJ KUMAR JHA.

FINANCIAL MEMORANDUM

Clause 10 of the Bill *inter-alia* provides that the appropriate Government shall have the duty for promoting awareness among public and also impart education and training for preventing and combating hate crimes and hate speech. Existing budgets will be used for the purpose. No additional expenditure is likely to be incurred to implement the provisions of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislation powers is of a normal character.

IV

BILL NO. LXVII OF 2022

A Bill to provide for a framework for enhancing the performance of the Parliament by fixing minimum number of sittings for each House of the Parliament, extending the hours of a sitting, introduction of a short Session of Parliament in addition to the existing practice of three Sessions, institution of a mechanism to separately discuss opposition business, compensation for the hours unutilised due to disruption and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

- 1. (1)** This Act may be called the Parliament (Productivity Enhancement) Act, 2022.
- (2)** It shall come into force on such date as the Central Government may, by notification, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "Committee" means the Opposition Business Committee constituted under section 7;

(b) "disruption" means the act of shouting of slogans or expressing violent behaviour or coming to the well of the House which leads to substantial delays in transaction of business or adjournment of the House; and

(c) "Interruption" means interjection by a Member during the speech of another member;

(d) "Opposition business" means the agenda and debates brought forward by the Members of the non-ruling parties.

(2) Words and expressions used in the Constitution and also in this Act, shall, unless the context otherwise requires, have the meanings assigned to them in the Constitution.

CHAPTER II SESSIONS OF EACH HOUSE OF PARLIAMENT

3. Subject to the provisions contained in article 85 of the Constitution, there shall be at least four Sessions, including a short Session, of each House of Parliament in a year. Number of Sessions in a year.

4. A short Session of each House of Parliament in a year shall entail the following, namely:— Short Session.

(a) the Session shall be of minimum fifteen days duration;

(b) the Session shall only be devoted to deliberation on at least two most urgent matters of public importance and no other business including Government legislative business shall be conducted;

(c) the agenda for the Session may be decided by all political parties represented in each House of Parliament;

(d) each political party may submit at least two matters for intended discussion in the short Session to the Business Advisory Committee of the respective Houses in accordance with the rules as may be prescribed; and

(e) the Business Advisory Committee of the respective Houses shall decide the final topics for discussion and recommend allocation of time for such discussions in each House.

CHAPTER III SITTINGS OF THE PARLIAMENT

5. Each House of the Parliament shall compulsorily sit for not less than one hundred and twenty days in a year. Minimum number of sittings of each House of Parliament in a year.

6. (1) Except during Private Members' Business, a member may move a motion, without a prior notice, to extend a sitting beyond the scheduled hour for its conclusion for the purpose of considering a specified item of business subject to the following condition:

Motion for extension of a sitting.

(a) the motion shall relate to the business being considered at that point of time;

(b) the motion shall be proposed in the last hour before the scheduled hour for inclusion of the sitting; and

(c) the motion shall not be subject to debate or amendment.

(2) In putting the question on a motion, the Chairman or the Speaker, as the case may be, shall collect voices both of Ayes and Noes in such manner as may be prescribed and the question before the House shall be determined accordingly.

CHAPTER IV OPPOSITION BUSINESS COMMITTEE

Constitution of Opposition Business Committee.

7. (1) The Chairman or the Speaker, as the case may be, shall, from time to time, constitute an Opposition Business Committee in each house of Parliament consisting of eight members to be nominated in such manner as may be prescribed.

(2) The Committee constituted under sub-section (1) shall hold office until a new Committee is nominated.

Chairman of Committee.

8. (1) The Chairman of the Committee shall be appointed by the Chairman or the Speaker, as the case may be, from amongst the members of the Committee.

(2) If the Chairperson of the Committee is for any reason unable to act, the Chairman or the Speaker, as the case may be, may appoint another Chairperson of the Committee in his or her place.

(3) If the Chairperson of the Committee is absent from any meeting, the Committee shall choose another member to act as a Chairperson of the Committee for the meeting.

Quorum

9. The quorum of the Committee shall be four.

Functions of Opposition Business Committee.

10. (1) It shall be the function of the Committee to recommend the Opposition Business to be taken up on the respective House of a sitting on Monday during the Session periods other than a short Session and also time that shall be allocated for the opposition business.

(2) The business recommended by the Committee shall have precedence over Government business.

CHAPTER V INTERRUPTION OR DISRUPTION OF BUSINESS

Exceptions for interruption.

11. A member shall not be interrupted, except by the Chairman or the Speaker, or another member who is—

(a) raising a point of order; or

(b) trying to clarify some matter raised by the member in his or her speech, but only if the member speaking is willing to give way and resume his or her seat and the member wishing to interrupt is called by the Chairman or the Speaker, as the case may be.

Extension of session.

12. (1) The number of hours lost due to disruptions shall be compensated by extending a Session of the respective House by as many hours for which the sittings were adjourned due to disruptions.

(2) For the purposes of sub-section (1), the Chairman or the Speaker, as the case may be, shall have inherent powers to extend the Session of the respective House.

CHAPTER VI
MISCELLANEOUS

13. The Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) and the Rules of Procedure and Conduct of Business in Lok Sabha may be amended, as deemed necessary, for the implementation of the provisions of this Act.

Amendment of
the Rules of
Procedure.

14. The Chairman or the Speaker, as the case may be, may by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Powers to
make rules.

STATEMENT OF OBJECTS AND REASONS

As the central institution of democracy, the India Parliament expresses the faith of the people and embodies the will of those in the Government. As the representative of India's diverse population, Parliament has a unique responsibility of balancing competing interests and catering to the needs of the people through democratic means of deliberations and discussions. The Indian Parliament which witnessed its most productive Session during the initial decades suffers from a limited number of sittings, frequent disruptions, and high absenteeism in the 21st century. The drastic reduction of Parliament productivity has seriously deteriorated the quality of discussion and hampered overall efficiency effectively.

2. The Parliament is the sole institution that secures the interests of the country as a whole. Apart from the regular legislative business, it also ensures that the Government is fully accountable to the people through the participation of non-ruling parties. However, the current framework does not adequately provide the members of the opposition parties with means to intervene and lead discussions which lead to more delays and disruptions. Consequently, both Houses of Parliament are not able to perform the crucial function of parliamentary oversight.

3. It is imperative to urgently reform and strengthen the existing system which is only possible by extending the number of days the Parliament functions. To keep up with the rapidly changing needs of the people, the working hours of Parliament in no situation should be reduced due to delays or disruptions. Further, a separate mechanism for the opposition parties to put forward the most pressing issues of the people could substantially bring down the incidences of disorder in both Houses of the Parliament.

The Bill seeks to achieve the above-stated objectives.

PROF. MANOJ KUMAR JHA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for at least four Session including a short Session to be held in Parliament every year instead of the existing practice of three Sessions in a year. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one hundred and thirty five crore per annum is likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 empowers Chairman, Rajya Sabha or Speaker, Lok Sabha, as the case may be to make rules for carrying out the provisions of the Act. The matters in respect of which the rules and regulations may be made are of procedure and administrative details and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

V

BILL No. LXXV OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title
and
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 16 of the Constitution, after clause (6) the following clause shall be inserted, namely:—

Amendment
of article 16.

"(7) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for economically weaker sections of citizens or for the Scheduled Castes or the Scheduled Tribes, to provide in their favour reservation of appointments or posts in private sector."

Amendment
of article 124.

3. In article 124 of the Constitution, after clause (1), the following proviso and Explanation shall be inserted, namely:—

"Provided that such number of Judges, as nearly as may be, equal to the proportion of the population of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the total population of the country, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, and the Other Backward Classes.

Explanation.—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Amendment
of article 216.

4. In article 216 of the Constitution, the following proviso and Explanations shall be inserted, namely:—

"Provided that such number of Judges, as nearly as may be, equal to the proportion of the population of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes in the State to the total population of the State, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, and the Other Backward Classes.

Explanation I—In this article, "State" includes all States and Union Territories that share a common High Court.

Explanation II—In this article, the expression 'population' means the population as ascertained at the last preceding census of which the relevant figures have been published."

STATEMENT OF OBJECTS AND REASONS

The Indian Constitution was designed to provide special measures for the social and economic advancement of the historically oppressed communities in the country. The constitutional principles of distributive justice and economic upliftment are reflected through the various Fundamental Rights and Directive Principles of State Policies enshrined in the Constitution. Even after seven decades of promulgation of the Constitution, the marginalised groups in India suffer from multiple forms of discrimination in all spheres, especially in terms of employment opportunities.

With the move towards privatisation and liberalisation in the country, the scope for public sector entities has shrunk considerably, which has resulted in lesser job opportunities for the weaker sections who rely heavily on the State for their livelihood. On the other hand, the Indian private sector, which so far has been outside the purview of a quota system in recruitment, is pervaded with social exclusion and caste favouritism. The pre-existing income inequalities and unequal distribution of wealth and property in the country further exclude marginalised groups from participating in the organised private sector which forces them to engage in unskilled work. In such a scenario, affirmative action in the private sector is categorically required to ensure continuous socio-economic development of the marginalised communities.

Upliftment of the weaker sections is a stated objective of our country and thus reservation in employment opportunities is a social responsibility of the Government as well as the private sector. Reservation policy in the private sector will not only provide fair and non-discriminatory access to historically excluded groups, but at the same time would remove deterrents created by caste discrimination on labour markets, and thereby enhance competitiveness and economic growth.

Further even after 75 years of affirmative action, the disadvantaged and marginalised communities in the country are not adequately represented in the higher judiciary. As the guardian of the Constitution and the last resort to the millions of citizens, the Supreme Court of India influences the lives of each and every one in the country. Therefore, it is imperative that judges represent the broadest spectrum of society.

Since independence, a very small number of Judges belonging to marginalised communities were able to serve as Judges of the Supreme Court and High Courts. Caste-based reservation has been an integral part of the Indian principle of equality, therefore, its absence in the superior judiciary is unconvincing and needs to be rectified. Without a constitutional provision for reservation, it is highly improbable for persons from these communities to reach such eminent positions through natural means. Further, the existence of reservation in subordinate courts is reason enough for its introduction in higher courts as well.

India is a highly diverse country and its diversity should also be reflected in the higher judiciary. A more inclusive judiciary is also more likely to foster balanced and comprehensive discussions on matters related to caste, gender, access and equality. The first-hand knowledge of the issues pertaining to backward classes would also help in developing a more advanced understanding of the caste-based problems in the country.

In absence of a formal and written framework, representation in the higher judiciary could not be expanded on its own. A constitutional mandate in this regard would ensure that the superior courts are never under represented. Previously, Parliamentary Committees and National Commission for Scheduled Castes have also recommended similar provisions for the appointment of judges in the Supreme Court and High Courts. It is of utmost importance that equitable representation and fair play in the higher judiciary is secured through the channels of the Constitution.

The Bill seeks to achieve above-mentioned objectives.

PROF. MANOJ KUMAR JHA.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

* * * *

Equality of opportunity in matters of public employment.

16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union Territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum often per cent. of the posts in each category.

* * * *

Establishment and constitution of Supreme Court.

124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

* * * *

Constitution of High Courts.

216. Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint.

* * * *

VI

BILL NO. LXVI OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 102 of the Constitution, after clause (2), the following clause shall be inserted, namely,—

Amendment of article 102.

“(3) A person shall be disqualified for being a member of either House of Parliament if he has ever been a Governor of a State.”

3. For article 155 of the Constitution, the following article shall be substituted, namely,—

Substitution of article 155.

“155. (1) The Governor of a State shall be appointed by the President by warrant under his hand and seal, after obtaining the concurrence of the Chief Minister of the State.

Appointment of Governor.

(2) The President may appoint any Governor of a State to hold full additional charge as the Governor of another State, on a temporary basis, for a period not exceeding six months, in case a vacancy has arisen which cannot be immediately filled.".

Amendment
of article 156.

4. In article 156 of the Constitution,—

(1) for clause (1), the following clause shall be substituted, namely,—

"(1) The Governor shall hold office for a term of five years;

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office."

(2) for clause (3), the following clause shall be substituted, namely,—

"(3) A Governor may be removed from office before the expiry of his term by the President only on recommendation of the Chief Minister of that State:

Provided that the President shall however, remove a Governor from office without the recommendation of the Chief Minister, if the Governor suffers from any of the disqualifications specified in article 157 after his appointment.".

Amendment
of article 157.

5. For article 157 of the Constitution, the following article shall be substituted, namely,—

Qualifications
and
disqualifications
for
appointment
as Governor.

"157. (1) No person shall be eligible for appointment as Governor unless he—

(a) is a citizen of India and has completed the age of thirty-five years; and

(b) is an eminent personality in some walk of life.

(2) A person shall be disqualified for appointment as Governor if he—

(a) has attained the age of seventy-five years;

(b) he has been in the employment of the Union or State Government or any Union or State owned undertaking or body or corporation or agency, or any local authority in the preceding ten years;

(c) he has served as a Minister in the Union, any State or Union Territory Government in the preceding ten years;

(d) he has served as a Member of either House of Parliament or of a House of Legislature of any State in the preceding ten years;

(e) he has been a Judge of the Supreme Court of India or any High Court;

(f) he has been a member of any Panchayat or Municipality in the preceding ten years;

(g) he has been an office bearer of a registered or recognised political party in the preceding ten years;

(h) has had a charge framed against him by a Court for an offence involving moral turpitude;

(i) had been convicted of any criminal offence with a punishment of one year or more;

(j) is of unsound mind and stands so declared by a competent court;

(k) is an undischarged insolvent;

(l) has ever been disqualified under the Tenth Schedule;

(m) he ordinarily resides within that State.".

Amendment
of article 158.

6. In article 158 of the Constitution, after clause (4), the following clause shall be inserted, namely—

"(5) Any person who has held the office of Governor of a State shall not be appointed to any other public office for a period of ten years.".

7. In article 191 of the Constitution, after clause (2), the following clause shall be inserted, namely—

Amendment
of article 191.

"(3) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he has ever been a Governor of a State.".

STATEMENT OF OBJECTS AND REASONS

1. The Constitution of India states that the executive power of the State vests in the Governor. The Governor being a head of the State is however expected to exercise that power as per the aid and advice of the Cabinet of the State. The Governor is appointed by the President of India, on the recommendations of the Union Cabinet. The Governor serves at the pleasure of the President.

2. During the Constituent Assembly Debates the framers of our Constitution foresaw a Governor who would be a "guide, philosopher and friend of the Ministry as well as the people in general". The Governor performs important Constitutional functions, which require him to be impartial and a person of impeccable integrity. Democracy is the lifeblood of our Constitution. It is only to establish a democratic government that our freedom fighters sacrificed their lives to fight the British. It may therefore appear odd that they chose to vest the executive powers of an elected State Government in an unelected Governor. The answer to this perplexing puzzle is two fold—firstly that they always imagined that the Governor would act in line with the aid and advice of his elected Cabinet and secondly that a person who adorns the office of Governor will be of the highest caliber, integrity and personality. When even one of these two conditions break down, chaos entails and the will of the people can be defeated by a single individual. There are not enough safeguards in the Constitution against such a break down. It was predicted by one learned member of the Constituent Assembly who foretold that if the Governor serves at the pleasure of the President, "he will be purely a creature of the President, that is so say, the Prime Minister and the party in power at the Centre".

3. There are three broad issues with the way Governors are appointed and function under our Constitution—(i) they are appointed by and can be removed by only the President, by extension, the party in power at the Centre; (ii) the State to which they are appointed has no say whatsoever in the Governor's appointment or removal; (iii) there are no sufficient qualifications, disqualifications and safeguards prescribed in the Constitution for a person to be appointed to the highest office in the State.

4. In so far as the first issue, it cannot be gainsaid that a Governor who turns political must cease to be a Governor. The time in nigh for appointing neutral, apolitical and impartial persons as Governors.

5. This brings us to the pool from which we appoint Governors. The only way to remedy this situation is to ensure that persons who have been engaged in active politics either as party office bearers or members of houses of Legislature or Parliament do not get appointed as Governors during a cooling off period of ten years. Further, those persons who have served in Government or Government undertaking, corporations etc. must not be appointed as Governors immediately since they would be loyal to the person who was their political boss until recently. It is unrealistic to expect them to suddenly turn impartial and neutral.

6. There is no reason why the elected *de facto* head of the State should not be consulted while appointing or removing a Governor. The Chief Minister of the State is entrusted with the people's mandate, the strongest authority available under our constitution. Such pre-appointment consultation is bound to reduce friction between the Governor and the Cabinet, and will improve their working relationship. It is therefore desirable for a better administration of the State that the President appoints the Governor after obtaining the consent of the Chief Minister of the State.

7. Further, the appointment of the Governor at the pleasure of the President is a colonial hangover that has to be banished. A high constitutional authority who is the head of the State should not serve at the pleasure of anybody, even the President. A Governor must be appointed for a fixed term of five years and may be removed by the President only after

consulting with the Chief Minister of the State or upon attaining any of the disqualifications prescribed.

8. Article 157 does not prescribe qualifications and disqualifications for holding office of the Governor. When qualifications have been prescribed even for a member of a Panchayat, it is not desirable that no minimum standards are set for choosing the Governor of a State. The individual performing crucial constitutional functions like inviting persons to form Government after an election must fulfill certain basic criteria. States also spend hundreds of crores on maintaining the Governor and his infrastructure. The Constituent Assembly was of the view that a Governor must not be known to be part of the local politics of that State or of the Union and desired to bring people who are outside of politics and are of eminent stature in other walks of life. The mind of a Governor should be free of any political likes or dislikes, or party politics or expectations of future appointments after his tenure expires. His entire devotion should be towards performing his constitutional duties in the interest of the State and work in accordance with the constitutional goals and ethos. To maintain his neutrality and impartiality to the people of the State and the Constitution, the appointee should not be connected with any political party or have recently retired from Government service.

9. It also cannot be gainsaid that our democracy has evolved to a point where persons with criminal antecedents are being washed away from mainstream politics. Therefore, it is only natural that a person with criminal antecedents must not be appointed as Governor of a State. Similarly, a lunatic or a declared insolvent must not be appointed as Governor.

10. Recently, we have also been acting on an unwritten rule that persons from the same State are not appointed as Governor of their home State. This is because they are bound to have some political views, even if they are not outwardly members of any party. It is time to codify the said rule.

11. It has been the practice for the President to appoint the Governor of one State to hold full additional charge as Governor of another State when a vacancy arises that could not immediately be filled. However, there is no enabling provision in the Constitution to do so.

It is therefore, proposed to amend the Constitution to achieve the above objectives.

Hence, this Bill.

P. WILSON.

VII

BILL NO. LXV OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement.

- 1. (1)** This Act may be called the Constitution (Amendment) Act, 2022.
- (2) It shall come into force at once.

Amendment of article 124.

- 2.** In article 124 of the Constitution, after clause (7), the following clause shall be inserted, namely:—

"(8) No person who has held office as a Judge of the Supreme Court shall hold any executive position or any office of profit, under the Government of India or any of the State Governments, before the expiry of five years from the date he ceases to hold such office."

3. After article 220 of the Constitution, the following new article shall be inserted, namely:—

"220A. No person who has held office as a Judge or as the Chief Justice of a High Court shall hold any executive position or any office of profit, under the Government of India or any of the State Governments, before the expiry of five years from the date he ceases to hold such office."

Amendment of article 220.

Restriction on post-retirement employment under Government of a Judge of a High Court.

STATEMENT OF OBJECTS AND REASONS

Independence and impartial functioning of the judiciary and the protection of constitutional governance depend upon the separation of powers. The judiciary is supposed to uphold the Constitution. It acts as a check against excesses, arbitrariness, and unlawful steps that may emanate from other branches.

This independence of the judiciary is achieved by many protective constitutional provisions. Judges cannot be arbitrarily removed once they are appointed, and can only be removed from office by a special majority of both Houses under article 124(4) of the Constitution. Judges, therefore, enjoy security of tenure while holding office, which is essential for maintaining judicial independence.

The Constitution also prohibits post-retirement work by judges as lawyers. Article 124(7) of the Constitution provides that a retired Supreme Court judge cannot "plead or act in any court or before any authority within the territory of India".

However, this provision only restricts post-retirement appointments in judiciary itself, but not in posts of President, Governor, Member of Parliament, etc. The post-retirement appointment of judges to other executive posts may undermine judicial independence.

In the Constituent Assembly, K T Shah, had put forward the suggestion that High Court and Supreme Court judges should not take up an executive office with the Government, "so that no temptation should be available to a judge for greater emoluments, or greater prestige which would in any way affect his independence as a judge."

In its 14th report in 1958, the Law Commission strongly recommended banning post-retirement Government employment for Supreme Court judges because the Government was a litigant in the courts in large number of cases.

Several appointments to administrative bodies require a cooling-off period for individuals so as to eliminate the possibility or suspicion of a conflict of interest or *quid pro quo*. This cooling-off period must be extended to Indian Judiciary. No person who has been appointed as judge in the Supreme Court or the judge or chief justice of a High Court shall hold any executive position or any office of profit, under the Government of India or any of the States of India, before the expiry of five years from the date of retirement from the post of the Judge of the respective court.

The Bill seeks to achieve these objectives.

DR. V. SIVADASAN.

VIII

BILL NO. LXI OF 2022

A Bill further to amend the Prevention of Money-Laundering Act, 2002.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Money-Laundering (Amendment) Act, 2022. Short title and commencement.

(2) It shall come into force at once.

2. In the Prevention of money-Laundering Act, 2002 (hereinafter referred to as the principal Act), in section 6,— Amendment of section 6.

(a) in sub-section (1), after the words, "powers and authority conferred by or under this Act", the words, "after consultation with the Chief Justice of India" shall be inserted.

(b) in sub-section (12), after the words, "after giving necessary opportunity of hearing", the words "and after consultation with the Chief Justice of India" shall be inserted.

Amendment of
section 50.

3. In section 50 of the principal Act,—

- (a) in sub-section (1), for the words, "have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908", the words "have the same powers as are vested in an agency under the Delhi Special Police Establishment Act, 1946" shall be substituted.
- (b) in sub-section (2), for the words "he considers necessary whether to", the words "is necessary to" shall be substituted.
- (c) sub-section (4) shall be deleted.
- (d) in sub-section (5), in clause (b), for the words "the previous approval of the Joint Director", the words "the previous approval of the Court" shall be substituted.

5 of 1908.
25 of 1946.

STATEMENT OF OBJECTS AND REASONS

Under the Prevention of Money-Laundering Act, 2002, in order to ensure impartiality and to ensure that the principle of the separation of powers is upheld, there is a need to have wider consultation regarding the appointment and removal of the adjudicating authority.

2. The authority under the Act which is enjoying the powers of a quasi-judicial system as well as an enquiring agency, and at the same time functioning under the government loses its independent working character. Therefore, there is need to ensure the independent character of the authority.

3. The enforcing authority, being under the government and having been vested with quasi-judicial powers, does not stand up to the principles of separation of powers, and also is resulting in the high centralisation of power. Therefore, there is need to ensure to uphold the principle of separation of power under the Act to ensure fairness in dispensing justice to the People.

4. The Bill seeks to achieve the above objectives.

DR. V. SIVADASAN.

IX

Bill No. LVIII of 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title, and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

(2) It shall come into force at once.

Insertion of new article 21B.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Right to employment.

21B. (1) The State shall ensure employment and living wages to all adult citizens in such manner as the State may, by law, determine:

Provided that in case of failure to ensure employment and living wages to adult citizens, the State shall provide for monetary compensation in such manner as the State may, by law, determine.

STATEMENT OF OBJECTS AND REASONS

The guarantee to employment is a very important factor for quality of life and liberty of an individual, as well as the society. As a developing nation it is important that all individuals in the nation get employment and decent wages.

The Bill proposes to provide every adult citizen the right to employment, or else, a decent amount as compensation.

Only a monitored and ensured mechanism by the State can ensure the achievement of the purpose.

The proposed legislation, hence, is required to ensure the quality of living of every individual, and thereby the progress of the nation.

The Bill seeks to achieve this objective.

DR. V. SIVADASAN.

FINANCIAL MEMORANDUM

Clause 2 of the Bill *inter alia* provides for monetary compensation to the adult citizens to whom the State fails to ensure employment and living wages. This Bill, therefore, would involve recurring expenditure from the Consolidated Fund of India. However, it is not possible to assess the actual financial expenditure likely to be incurred at this state.

X

BILL No. LVII OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force with immediate effect.

2. In article 16 of the Constitution for clause (4), the following clause shall be substituted, namely:—

Amendment of article 16.

"(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, in proportion to their population which, in the opinion of the State, is not adequately represented in the services under the State."

STATEMENT OF OBJECTS AND REASONS

In terms of the principles of affirmative action enabled under the Constitution of India to ameliorate the conditions of Other Backward Classes (OBCs), periodic measures have been taken by the previous Governments. However, OBCs have not secured representation proportionate to their population in Government jobs.

2. The representation of the citizens from socially and educationally backward classes in Government jobs, as provided by the Constitution is only 27 per cent while their population is fairly more than this.

3. The proposed Bill would enable adequate Reservation for OBCs in appointments or posts and make the system of appointments more equitable and thereby increase the representation of OBCs in proportion to their population in Government jobs.

4. The Bill seeks to achieve the above objectives.

JAVED ALI KHAN.

XI

BILL NO. LVI OF 2022

A Bill to prevent insult to the Father of the Nation and other icons of Freedom Movement or showing of respect to assassins of the Father of the Nation.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Insult to the Father of the Nation and other Icons of Freedom Movement Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) 'Father of the Nation' means Mohandas Karamchand Gandhi *alias* Mahatma Gandhi.

(b) 'insult' means exhibiting contempt or disrespect to the Father of the Nation and other icons of Freedom Movement by words, either spoken or written, or by acts and includes showing respect to the assassins of the Father of the Nation; and

(c) 'other icons of Freedom Movement' means persons who fought for freedom of the country and monuments related to freedom movement.

Penalty.

3. Whoever in any public place or in any other place within the public view insults the Father of the Nation or other icons of Freedom Movement, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

Penalty on
second and
subsequent
convictions.

4. Whoever, having already been convicted of an offence under section 3, is again convicted of any such offence, shall be punishable for the second and every subsequent offence, with imprisonment for a term which shall not be less than three years.

STATEMENT OF OBJECTS AND REASONS

During the recent years, instances of insult to the Father of the Nation and other icons of Freedom Movement have increased. The existing laws have failed to check repeated insults to the Father of the Nation and other icons of Freedom Movement, miserably. In such scenario it is necessary to undertake measures to ensure respect owed to Freedom Struggle and its heroes, by providing and legislating harsh punishment to those who are trying to malign the image of the Father of the Nation and other icons of Freedom Movement.

Hence, this Bill.

JAVED ALI KHAN.

XII

BILL NO. LIX OF 2022

A Bill to provide that all regional languages shall be used for all official purposes of the Union and for matters connected therewith or incidental thereto.

WHEREAS in a democracy, the application of laws must be understandable to all its citizens;

AND WHEREAS the Hindi speaking population in India is concentrated in just six States and residents of the remaining States, which constitute the majority, have been discriminated against by not being allowed to conduct official business in their regional language;

AND WHEREAS the languages people speak helps in defining who they are and being allowed to communicate in the same language is part of our right to identity which is implicit in the fundamental rights guaranteed under Part III of the Constitution of India.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Official Languages Act, 2022.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "Committee" means the Official Language Committee constituted under section 6;

(b) "official purpose" means and includes:—

(i) communication between one Ministry or Department or office of the Central Government and another Ministry;

(ii) communication between one Ministry or Department or office of the Central Government and any corporation or company owned or controlled by the Central Government or any office thereof;

(iii) communication between the Central Government or any Ministry or Department or office thereof or any corporation or company owned or controlled by the Central Government or any office thereof and any State Government or any Ministry or Department or office thereof or any corporation or company owned or controlled by the State Government or any office thereof;

(iv) communication between any corporation or company owned or controlled by the Central Government or any office thereof and another;

(v) resolutions, general orders, rules, notifications, administrative or other reports or press releases issued or made by the Central Government or by a Ministry, Department or office thereof or by a corporation or company owned or controlled by the Central Government or by any office of such corporation or company;

(vi) administrative and other reports and official papers laid before the Houses of Parliament;

(vii) contracts and agreements executed, licences, permits, notices and forms for tender issued, by or on behalf of the Central Government or any Ministry, Department or office thereof or by a corporation or company owned or controlled by the Central Government or by any office of such corporation or company; and

(viii) proceedings conducted in High Courts of all States including any judgment, decree or order passed or made by the High Court.

(c) "official status" means the position given to all languages mentioned in the Eighth Schedule to the Constitution which can be used for official purposes;

(d) "prescribed" means prescribed by rules made under this Act.

3. Notwithstanding anything contained in any other legislation for the time being in force, all languages listed in the Eighth Schedule to the Constitution, as of the day this Act comes into force, and those to be included by amending the Constitution, shall be given official status from such date on which this Act comes into force:

Official status to languages in the Eighth schedule.

Provided that no language that has been removed from the Eighth Schedule to the Constitution by an amendment made to the Constitution shall be given official status.

4. All languages that have been given official status shall be used for all official purposes of the Union:

Languages to be given official status for all official purposes of the Union.

Provided that for communication between one Ministry or Department or office of the Central Government and another; or communication between one Ministry or Department or office of the Central Government and any corporation or company owned or controlled by the Central Government or any office thereof; or communication between any corporation or company owned or controlled by the Central Government or any office thereof and another; the official language or languages preferred by both the Ministries or Departments or other office of the Central Government or corporations of companies owned or controlled by the Central Government or any office thereof shall be taken into account and all communication between the Ministries or Departments or other office of the Central Government or any office thereof shall be conducted in all such official languages in such a way that they are all translations of one another:

Provided further that all communication between the Central Government or any corporation or company owned or controlled by the Central Government or any office thereof and any State Government or any corporation or company owned or controlled by the State Government or any office thereof shall be in both English and the Official language preferred by the State concerned and the official language preferred by the Central Government:

Provided further that all resolutions, general orders, rules, notifications, administrative or other reports, press releases issued or made by the Central Government or by a corporation or company owned or controlled by the Central Government or by any office of such corporation or company, administrative and other reports, official papers laid before a House or the House of Parliament, contracts and agreements executed, licences permits notices and forms for tender issued by or on behalf of the Central Government or by a corporation or company owned or controlled by the Central Government or by any office or such corporation or company, shall be issued in all official languages:

Provided further that proceedings of High Courts including any judgment, decree or order passed or made by a High Court may be in the official language adopted by the State in which the High Court is situated.

English translation of communications.

5. Notwithstanding anything provided in section 4, an English translation shall be provided at the time for all communications made for official purposes.

Establishment of Official Languages Committee.

6. (1) The Central Government shall by notification in the official Gazette constitute an Official Languages Committee under the provisions of this Act within sixty days of its coming into force.

(2) The Committee shall consist of twenty members, of whom ten shall be members of the House of the People and ten shall be members of the Council of States, to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of a single transferable vote.

Functions of the Committee.

7. The Committee shall promote the teaching and learning of all official languages in such manner as may be prescribed.

Annual Report.

8. (1) The Committee shall annually submit a report to the President giving its recommendations therein and the President shall cause the report to be laid before each house of Parliament, and sent to all the State Governments.

(2) The President may, after consideration of the report referred to in sub-section (1) and the views, if any, expressed by the State Government thereon, issue directions in accordance with the whole or any part of the report:

Provided that the directions so issued shall be consistent with the other provisions of this Act.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19 of 1963

10. The Official Languages Act, 1963 with all its amendments is hereby repealed.

Repeal

STATEMENT OF OBJECTS AND REASONS

The language we speak helps define who we are and adds to our sense of identity. It is an inalienable right conforming to the principles embodied in the United Nations International Convention on Civil and Political Rights and according to the spirit of Part III of the Constitution of India. It is, therefore, pertinent to make provisions that promote the linguistic and cultural diversity of India and not to stifle it.

2. In a democracy, the laws it applies must be understandable to all its citizens. Moreover, there can be no discrimination between people belonging to different states. If residents of one State are given the privilege to conduct official business in their mother tongue, the same privilege must be extended to all citizens. In the official dealings with institutions, all citizens must have the right to use their own regional language. While national integration is of paramount importance, we as a Union of States must also actively promote the freedom of its peoples to speak and write their own language.

3. India must be committed to maintaining its multilingual character. It is important for us to realize that the protection and promotion of regional languages represent an important contribution to the building of an India based on the principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity.

The Bill seeks to achieve the above objectives.

TIRUCHI SIVA.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that all official languages may be used for all official purposes of the Union. Clause 5 of the Bill provides that an English translation must be provided at all times for all communications made for official purposes. Clause 6 of the Bill provides for the constitution of an Official Languages Committee and Clause 7 of the Bill prescribes that the Committee shall promote the teaching and learning of all official languages. The Bill, if enacted will involve expenditure from the Consolidated Fund of India, however, at this stage, it is difficult to estimate the exact expenditure, both recurring and non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. The rules will relate to matters of procedure or administrative details only. The delegation of legislative power is, therefore, of a normal character.

XIII

BILL NO. LXII OF 2022

A Bill to provide for a Digital Literacy Curriculum in all educational institutions to make the youth digitally literate and for matter connected therewith or incidental thereto.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called Right to Digital Literacy Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,

Definitions.

(a) "appropriate Government" means in relation to a State, Government of that particular State and in all other cases, the Central Government;

(b) "Curriculum" means the Digital Literacy Curriculum formulated under section 3;

- (c) "data privacy" means empowering individuals to make their own decisions about who can process their data and for what purpose;
- (d) 'data protection" means keeping data safe from unauthorized access;
- (e) 'digital" means regularly updating and cleaning electronic devices, using passwords that follow security protocols, organizing the files stored on the device, optimizing setting etc;
- (f) "digital literacy" means the knowledge, skills and attitudes that allow individuals to be both safe and empowered in an increasingly digital world;
- (g) "disinformation" means false information deliberately spread to deceive people;
- (h) "educational institutions" means all schools and colleges in the territory of India;
- (i) "impact assessment" means a holistic evaluation to understand the extent to which the Curriculum has penetrated into the lives of children and young adults and has enabled them to use the internet safely;
- (j) "misinformation" means incorrect or misleading information;
- (k) "Online Financial Fraud" means the act of obtaining financial gain through profit-driven criminal activity, including identity fraud, ransomware attacks, email and internet fraud, and attempts to steal financial account, credit card, or other payment card information;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "sextortion" means a form of online abuse, wherein the cybercriminal makes use of various channels like instant messaging applications, short messaging service, online dating applications, social media platforms, porn sites etc., to lure the users into intimate video or audio chats and makes them pose nude or obtains revealing pictures from them;
- (n) "social media etiquette" means treating others with respect online, personal information, images, or videos of anyone not to be shared without consent etc.; and
- (o) "virtual digital asset" shall have the same meaning as defined under sub-section (c) of section 3 of the Finance Act, 2022.

6 of 2022.

- 3. (1)** The appropriate Government shall, within six months from the date of commencement of this Act formulate a Digital Literacy Curriculum by notification in the Official Gazette for carrying out the purposes of this Act.
- (2) From such date, as the appropriate Government may, by notification in the Official Gazette specify, the Curriculum shall be adopted in all educational institutions.
- (3) The appropriate Government shall take all measures to ensure that the Curriculum,—
- (a) is designed after a preliminary diagnostic review of the local context and due consultations with concerned stakeholders in such manner as may be prescribed;
- (b) includes content relating to data protection, data privacy, social media etiquette, digital hygiene, misinformation, disinformation, online financial fraud, sextortion, virtual digital assets and any other relevant subject that the appropriate Government may decide;
- (c) is framed on a grade-by-grade basis for all educational institutions; and
- (d) is revised at such requisite intervals of time, as may be prescribed by the appropriate Government to keep pace with the changing technological landscape.

4. (1) The appropriate Government shall take measures to address the human resource requirements for implementation of the Curriculum by planning, developing, implementing and regularly updating educational and training programs in collaboration with institutions of higher education and training.

Appropriate Government to take measures as to address human resource requirement, training, etc.

(2) The appropriate Government shall ensure the appointment of such number of teachers with such qualifications, as may be prescribed for teaching the Curriculum in educational institutions.

(3) The appropriate Government shall make efforts to incorporate international best practices in digital literacy in the curriculum.

5. The appropriate Government shall take all measures to ensure effective co-ordination between services provided by concerned Ministries and Departments of that Government such as those dealing with Information Technology, Education, Finance, Home Affairs, Women and Child Development for carrying out the purposes of this Act.

Co-ordination within appropriate Government.

6. (1) The appropriate Government shall design an impact assessment mechanism to evaluate the efficiency of the Curriculum.

Impact assessment.

(2) The appropriate Government shall conduct an impact assessment as per clause (1) at five year intervals in such manner as may be prescribed:

Provided that the first impact assessment shall be conducted after five years of the implementation of the Curriculum.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Governments, from time to time, for carrying out the purposes of this Act.

Central Government to provide funds.

8. (1) The appropriate Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

9. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

STATEMENT OF OBJECTS AND REASONS

As of March 2022, there are a total of 82 crore internet subscribers in India according to the "Indian Telecom Services Performance Indicator Report" released by Telecom Regulatory Authority of India (TRAI). Since the Covid-19 pandemic made remote working and remote learning the norm, the world has witnessed a surge in dependence on the internet. Hence, social media platforms have become mainstream vehicles for civic participation. As a result, invasions of privacy, increasing surveillance, digital financial transactions are just some of the complex issues that face us today.

As per NITI Aayog, "Most of the internet users are in urban educated classes. This situation reflects that majority of the Indians still remain unfazed by the information technology revolution. With such a disparity in digital access and literacy, it is hard to aspire for inclusion and equity. India is expected to have the largest working age population, which requires rapid job creation. Digital literacy becomes a crucial medium of communication with global citizens".

Even though children are seemingly adept at using digital tools, this does not mean that they are digitally literate. Digital literacy encompasses awareness of digital rights, balanced use of technology, digital emotional intelligence, digital safety and security and civic digital self-expression. School going children can be extremely vulnerable to cyber bullying, phishing, online scams, malware and the like. Besides, children need to be sensitised to the perpetual nature of the internet and the perils of posting personally identifiable information online. Children and young adults need to be digitally literate even when they are offline since their schooling, societal conditioning and future job opportunities largely depend on their understanding of and participation in the digital ecosystem.

This Bill assumes greater significance since India does not have a Data Protection law yet. At the same time, it is only a first step towards our goal of a digitally literate India. Various challenges to mainstreaming digital literacy include low-quality technological infrastructure, cost of infrastructure needed for the use of Information and Communications Technology (ICT), lack of online content in local languages and that related to everyday life, lack of understanding of the decision makers, lack of evidence based information and a lack of sufficient regulation in relation to privacy and transparency. We must look at digital literacy as one part of the solution and not the panacea.

Notably, the United Nations Committee on the Rights of the Child, in 2014, advised member governments (including India) to include digital literacy in their national school curriculums. Countries like Scotland, Australia, Netherlands already have a digital literacy framework in place. Even though the National Education Policy, 2020 envisages digital literacy as a part of the curriculum framework for school and adult education, it does not define the same. This Bill seeks to incorporate a rights based approach to digital literacy and citizenship. The thrust to Digital India must be accompanied by an adequate legislative response to the opportunities and threats presented by the internet.

The bill seeks to achieve the above objectives.

DEREK O'BRIEN.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the appropriate Government to take measures as regard to human resource development and training by appointing teachers for imparting education on Digital Literacy Curriculum. Clause 7 of the bill provides that the Central Government shall provide requisite funds for carrying out the purposes of the bill. The bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore would be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

XIV

BILL NO. LXIII OF 2022

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

2. In section 375 of the Indian Penal Code, 1860 for Exception 2, the following shall be substituted namely:—

Amendment of section 375.

"Exception 2.—The fact of a subsisting marriage of the accused and the victim shall not be treated as mitigating factor for the offence under this section."

STATEMENT OF OBJECTS AND REASONS

India was a British colony during the time of drafting of the Penal Code in the 19th century. English laws did not recognise men and women as equals and merged the identity of women with their husbands. Under section 375 of the Indian Penal Code, the offence of rape provides for an exception—"Sexual intercourse by a man with his own wife, the wife not being under 15 years of age, is not rape". The 42nd Report of the Law Commission (1971) suggested the removal of this exception. The Indian Penal Code was subsequently amended in the year 1983 to criminalise spousal rape during the period of judicial separation, as suggested by the 84th Law Commission Report. However, the exception of marital rape still remained.

2. Article 2 of the Declaration of the Elimination of Violence against Women includes marital rape unequivocally in the definition of violence against women. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee also suggested that India should 'widen the definition of rape in its Penal Code to reflect the realities of sexual abuse experienced by women and to remove the exception of marital rape from the definition of rape'. Inspired by this, the Justice Verma Committee recommended deleting the exemption contained in section 375. Apart from being a moral obligation, incorporation of such international treaties is prescribed in article 253 of the Constitution of India. In addition, article 51 requires that the State endeavour to promote international peace and security, maintain good relations with other nations, and respect international law. Under both these articles, it is a mandate that the Legislature removes this exception.

3. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) did not criminalise marital rape but recognised it as a form of domestic violence, providing a first step towards criminalisation. The marital rape exception is antithetical to the Right to Life and Personal Liberty under article 21 of the Indian Constitution which states that 'No person shall be deprived of his life and personal liberty except according to the procedure established by law'. Through the course of time, the Supreme Court has expanded the Right to Life beyond a mere literal protection of life and liberty. It includes a dignified life, safe living conditions, a woman's right to her reproductive choices, and privacy. Thus, there is a need to remove the exception of marital rape from the offence of rape.

The Bill seeks to achieve the above objectives.

DEREK O'BRIEN.

XV

BILL NO. LXXXI OF 2022

A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force at once.

2. In section 2 of the Right of Children to Free and Compulsory Education Act, 2009, (hereinafter referred to as the Principal Act), after clause (g), the following clause shall be inserted, namely:—

"(gg) 'learning outcomes' means assessment standards indicating the expected level of learning that children should achieve for each class."

Amendment
of section 8.

3. In section 8 of the principal Act, after clause (*i*), the following clause shall be inserted namely:—

"(*j*) ensure yearly evaluation of 'Learning outcomes' of each class and subject as required."

Amendment
of section 18.

4. In section 18 of the principal Act, in sub-section (*I*), the words "other than a school established, owned or controlled by the appropriate Government or the local authority" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Right of Children to Free and Compulsory Education Act, 2009 was enacted with the good intention of providing free and compulsory education to the children of India. However, it suffers from a flaw that undermine its purpose. The exemption of schools established, owned or controlled by the appropriate Government or the local authority from the recognition criteria under section 18 of the Act, leaves many schools out of the requirements necessary for quality education. There is a need for amendment in the Act to ensure quality education in all the schools.

2. Secondly, in evaluating the performance of schools, apart from the "inputs" the addition of evaluation of learning outcomes can be a tool for significantly improving the quality of learning. The principal Act is completely silent on learning outcomes. The current Bill provides for the right to quality education while ensuring quality learning outcomes.

Hence, this Bill.

DEREK O'BRIEN.

XVI

BILL NO. LXXIII OF 2022

A Bill further to amend the Mahatma Gandhi National Rural Employment Guarantee Act, 2005.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Mahatma Gandhi National Rural Employment Guarantee (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment long title. **2.** In the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (hereinafter referred to as the 'principal Act'), in the long title,—

(a) for the words "one hundred days", the words "two hundred days each" shall be substituted.

(b) for the words "every household", the words "at least two adult members of every household", shall be substituted.

3. In section 3 of the principal Act, for sub-section (1) the following sub-section shall be substituted, namely:—

Amendment
of section 3.

"(1) Save as otherwise provided, the State Government shall, in such rural area in the State as may be notified by the Central Government, provide to at least two adult members of every household, where there is more than one adult member and whose adult members volunteer to do unskilled manual work, not less than two hundred days each of such work in a financial year in accordance with the Scheme made under this Act:

Provided that in the event of a household having only one adult member, the above provision shall be construed accordingly."

4. In section 4 of the principal Act, in sub-section (1),—

Amendment
of section 4.

(a) for the words "one hundred days", the words "two hundred days each" shall be substituted.

(b) for the words "every household", the words "at least two adult members of every household" shall be substituted.

5. In section 6 of the principal Act, for sub-section (1), the following sub-section shall be substituted namely:—

Amendment
of section 6.

"(1) Notwithstanding anything contained in the Code on Wages, 2019, the Central Government may, by notification, specify the wage rate for the purposes of this Act:

Provided that different rates of wages may be specified for different areas based on the All-India Consumer Price Index from time to time:

Provided further that the wage rate specified from time to time under any such notification shall not be at a rate less than six hundred rupees per day."

6. In section 7 of the principal Act, in sub-section (3),—

Amendment
of section 7.

(1) for clause (c), the following clause shall be substituted namely:—

(c) the two adult members of the household of the applicant have received in total at least four hundred days of work altogether within the financial year, or in total at least two hundred days of work in the event of the household having only one adult member, as the case may be; or"

(2) for clause (d), following clause shall be substituted, namely:—

"(d) the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for four hundred days of work during the financial years, or for two hundred days of work during the financial year in the event of the household having only one adult member, as the case may be."

7. In section 22 of the principal Act,—

Amendment
of section 22.

(1) in sub-section (1), for clause (b) the following clause shall be substituted, namely:—

"(b) the material cost of the Scheme including payment of wages to skilled and semi-skilled workers;"

(2) in sub-section (2), clause (b) shall be omitted.

8. In section 25 of the Principal Act, for the words "one thousand rupees", the words "twenty five thousand rupees" shall be substituted.

Amendment
of section 25.

STATEMENT OF OBJECTS AND REASONS

India is the land of villages as rightly said by Mahatma Gandhi, " I would say that if the village perishes India will perish too. India will be no more India." The notion of rural development has come to be construed as the process of improving the quality of life and economic well being of people living in rural areas especially the areas that are relatively isolated and entail sparse population. India lives in its villages, and the development of villages will be critical if we want to close the gap between the 'haves and have nots' for better human development.

2. The Constitution (Seventy-third Amendment) Act, 1992 has added a new part IX to the Constitution, consisting of 16 Articles and the Eleventh Schedule, which paves the way for the Panchayat Raj System in the Country. Empowerment of the Panchayat Raj Institution (PRIs) has led to the strengthening of the nation. PRIs are the primary instruments for empowerment of people at the grass root level for shaping their own destiny. A vast majority of people are still living in the rural and remote areas without any touch of modern day. Panchayati Raj is the bedrock of democratic decentralisation in India. It has heralded an age of representation, participation, transparency and accountability — and the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) is one of the beacons through which these are being realised.

3. The MGNREGA was promulgated by the Government to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

4. The 20th Report of the Standing Committee on Rural Development and Panchayati Raj (2021-22) states that MGNREGA is powerful instrument for ensuring inclusive growth in rural India through its impact on social protection, livelihood security and democratic empowerment. Under MGNREGS, the Gram Panchayat is responsible for producing all relevant documents such as muster rolls, bills, vouchers etc. for the Gram Sabha to conduct periodic social audits of work done under the scheme. As on November 12, 2021, a total of 27 States had established Social Audit Units (SAU).

5. MGNREGA is a demand driven wage employment programme and resource transfer from Centre to States is based on the demand for employment in each State. It provides a legal guarantee for wage employment by providing allowances and compensation both in cases of failure to provide work on demand and delays in payment of wages for the work undertaken. Plans and decisions regarding the nature and choice of works to be undertaken, the order in which each worksite is to be selected, etc., are all to be made in open assemblies of the Gram Sabha and ratified by the Gram Panchayat. Social audit creates accountability of performance, especially towards immediate stakeholders. Thus, MGNREGA also marks a break from the relief programmes of the past towards an integrated natural resource management and livelihoods generation perspective.

6. However, the socio-economic scenario prevailing in the country at the time of promulgation of MGNREGA has undergone a sea change over the last two decades, Recently, the International Monetary Fund (IMF) announced that India had surged past the United Kingdom to become the fifth largest economy in the world, thanks to its sheer population size. But it is the Per Capita income which determines the average per-person income and to evaluate the standard of living and quality of life of the population. The per capita net national income (NNI) of India at current prices during 2020-21 is estimated to have been dwindled to Rs. 1,28,829/- as compared to Rs. 1,34,186/- for the year 2019-20. The per capita income in real terms (at 2011-12 prices) during 2020-21 is estimated at Rs. 86,659/- as compared to Rs. 94,566/- during 2019-20.

7. According to the IMF World Economic Outlook (October - 2021), GDP (nominal) per capita of India in 2021 is projected at \$ 2,116 at current prices. India is at 150th position

out of 195 economies in terms of GDP per capita (nominal). So the average income of Indians continues to remain very low.

8. Similarly as per the World Inequality Report 2022, there is a worrying divergence in the country in the distribution of wealth between rich and poor. India is now among the most unequal countries in the world with spectacular increase in inequality. While the top 10% and top 1% hold respectively 57% and 22% of total national income, the bottom 50% share has gone down to 13%. India stands out as a very unequal country, with an affluent elite. The richest are getting richer at a much faster pace while the poor are still struggling to earn a minimum wage and the latter's access to quality education and healthcare services continue to suffer from chronic under-investment.

9. Though, India is slated to regain its economic growth rate after the pandemic, the recovery from the pandemic lows has been anything but balanced. One possible indication of the scale of the distress comes from data on households/individuals who have worked under MGNREGA. In 2019-20, the year prior to the pandemic, 7.88 crore individuals worked under the scheme. In 2020-21, the first year of the pandemic, this number rose to 11.19 crore. Though, it descended to 10.36 crore in the subsequent year, the number of individuals working under the scheme remained considerably higher than in the pre-pandemic period. This growing reliance on MGNREGA likely indicates that other more remunerative employment opportunities remain limited. Another pointer to the economic distress at the lower end of the income distribution scale comes from the National Crime Records Bureau report — there has been a rise in suicides by daily wage earners and in 2021, daily wage earners accounted for a fourth of suicides in the country. Other Indicators also point to subdued household purchasing power. We shall remain wary of the highly uneven nature of the recovery and take measures to address the distress of the most vulnerable.

10. In these circumstances, it is the need of the hour to strengthen the MGNREGS by amending the MGNREGA so as to expand the ambit of the Act by increasing the days of guaranteed wage employment and by providing employment to at least two adult members of every household. The current days of guaranteed work, that too only for one adult member of a household, is not sufficient to provide reasonable income for leading a dignified life for a family of four or more members. It is equally imperative to enhance the penalty on contravention of the provisions of the Act so as to ensure due compliance of the Act.

11. Likewise, section 22 of the Principal Act explaining the Funding Pattern stipulates that a portion of the material cost of the Scheme, including a portion of payment of wages to skilled and semi-skilled workers, has to be borne by the respective State Governments. However, considering the present precarious financial position of most the States, it will be a cumbersome task. There is a structural vertical imbalance which necessitates orderly transfer of resources from the Union to the States. At an aggregate level in 2018-19, the States could generate their own resources to meet only 44.8 per cent of their total expenditure. This means that the remaining 55.2 per cent needed financing through vertical resource transfers and/or by contracting debt. In these circumstances, the aforementioned condition of payment by States of a portion of material cost, needs to be modified suitably so as to make the Central Government responsible to pay the whole of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers.

The Bill seeks to achieve the aforesaid objectives.

DR. JOHN BRITTAS.

FINANCIAL MEMORANDUM

Clauses 3 and 4 of the Bill provide for increasing the days of guaranteed employment as well as to provide two hundred days each of work to at least two adult members of every household. Clause 5 of the Bill provides for enhancing the base wage rate. Clause 7 of the Bill proposes to make the Central Government responsible for the payment of the whole of material cost and wages of skilled and semi-skilled workers.

2. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. However, at this stage, it is not possible to quantify the recurring or non-recurring expenditure involved.

XVII

BILL NO. LXX OF 2022

A Bill further to amend the Motor Vehicles Act, 1988.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

59 of 1988.

2. In the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), in section 147,—

Amendment
of section
147.

(1) in sub-section (1), in clause (b), for sub-clause (ii) and Explanation thereto, the following shall be substituted, namely:—

"(ii) against the death of or bodily injury to any passenger of a motor vehicle including, but not limited to, gratuitous passengers and pillion riders, except gratuitous passengers of a goods vehicle, caused by or arising out of the use of the motor vehicle."

(2) in sub-section (3), after the words "any other prescribed matters," the words ", save as otherwise provided by or under this Act," shall be inserted.

3. In section 150 of the principal Act,—

(1) in sub-section (2), in clause (a), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) a condition excluding driving, with the connivance of or knowledge of the owner, by a named person or by any person who is not duly licensed or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or"

(2) after sub-section (4), the following proviso shall be inserted, namely:—

"Provided that on occurrence of any of the eventualities set forth in clause (a) of sub-section (2), the insurer shall pay the awarded compensation in the first instance to third parties including gratuitous passengers and pillion riders, and may thereafter recover the same from the insured persons."

(3) in sub-section (5), after the words "otherwise than in the manner provided for in sub-section (2)", the words "subject to the proviso to sub-section (4)," shall be inserted.

4. In section 157 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The transferee may apply in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour, and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance:

Provided that nothing contained in this sub-clause, or failure in compliance thereof, shall render the provisions of sub-section (1) invalid."

5. In sub-section (3) of section 166 of the principal Act,—

(1) in sub-section (3), for the words "six months", the words "three years" shall be substituted.

(2) after sub-section (3), the following proviso shall be inserted, namely:—

"Provided that an application for compensation may be entertained after the prescribed period, if the claimant satisfies the Claims Tribunal that he had sufficient cause for not making an application within such period."

Amendment
of section
150.

Amendment
of section
157.

Amendment
of section
166.

STATEMENT OF OBJECTS AND REASONS

The Motor Vehicles Act, 1988 [Act No. 59 of 1988] contained certain timeframes under sub-section (3) of section 166 for filing application for compensation in respect of accidents before the Motor Accidents Claims Tribunals. However, those periods of limitation were subsequently removed by omitting sub-section (3) of section 166, *vide* section 53 of the Motor Vehicles (Amendment) Act, 1994. This expunging of timeframe might have been made by taking into consideration of the hardships faced by the victims of the accidents in complying the said time limit. Thenceforth, the victims of accidents have been at liberty to file application for compensation before the Motor Accident Claims Tribunals without reckoning the period between the date of accident and filing of application.

However, the Government promulgated the Motor Vehicles (Amendment) Act, 2019 on 09.08.2019, whereby a new sub-section (3) was inserted to section 166, by virtue of section 53 of the Amendment Act, *viz.*—

"(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident."

The Government notified the implementation of the above provision with effect from 01.04.2022. It is to be noted that the above amendment, in reality, shall be advantageous to insurance companies as innumerable number of applications for compensation can be denied merely on the grounds of the delay in filing applications. If a victim of an accident is bedridden for more than six months, he may not be able to file an application for compensation within the presently stipulated time period of six months. Though, the victim can, in such a circumstance, authorize an agent for filing application by invoking clause (d) of sub-section (1) of section 166 of the principal Act, the same would not always be feasible on practical considerations since the person so injured has to 'duly authorize' the agent.

Similarly, a claimant needs several information like the registration details of the vehicle involved in the accident, insurance details, driving licence details, etc. for filing an application which may not always be effortless to collect. Prior to the latest amendments, the victims of accidents generally inclined to rely on the charge sheet filed by the police authorities before the courts, to get hold of the above mentioned details. It is true that a new section 159 has been inserted in the principal Act by virtue of the Amendment Act No. 32 of 2019 thereby making the police officers duty-bound, during the investigation, to prepare an accident information report to facilitate the settlement of claim in such form and manner, within three months and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed. Further, another newly inserted section 160 *vide* the Amendment Act No. 32 of 2019 makes it imperative that the registering authorities and officer-in-charge of police stations shall furnish to the claimants, on payment of the prescribed fee, any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged. However, on a practical consideration, the investigation of police authorities generally tends to exceed the prescribed time limits if we examine the history of motor accident investigations. Several factors may lead to the delay in completion of investigations. Besides the usual factors, the investigation may get delayed in cases of requirement of availing the Forensic Science Laboratory (FSL) Reports in cases where there arises a dispute as to who was driving the vehicle at the time of accident, ascertaining the identity of vehicle involved in an accident in cases where the driver ran off with the vehicle, etc. These extraneous reasons are beyond the control of investigation agencies, thereby also rendering the provision contained in sub-section (4) of section 166 of the principal Act toothless in many cases in so far as the time-frame is concerned. These aspects were not seen duly envisaged while introducing the new timeframe.

It is equally pertinent to note that the limitation period prescribed in the Limitation Act, 1963 for filing even money suits, in most of the circumstances, is three years. All the above aspects make it exigent that the victims of accidents are to be provided with reasonable time period for filing application for compensation before Motor Accidents Claims Tribunals. There should also be a provision for condoning the delay for the cases filed after the prescribed period, if there are sufficient causes for the delay occasioned.

Likewise, in a catena of judgments the Supreme Court held on the basis of the existing provisions of the Motor Vehicles Act, 1988, that 'Liability Only Policy' (Act Only Policy) by itself, being a statutory policy, won't cover the risk of death of or bodily injury to gratuitous passengers including pillion riders. Though the Supreme Court, in a few of such cases, directed the insurer to pay the amount of compensation to the claimants in the first instance and thereafter to recover it from the insured, the same is seen to be by invoking the inherent powers of Supreme Court under article 142 of the Constitution of India. The term 'third party' shall include all persons other than the insured, who is the first party, and the insurer, who is the second party. All other persons, including gratuitous passengers and pillion riders, who are neither the insured nor the insurer, shall be treated as 'third party' for the purpose of insurance coverage in a Liability Only Policy. As such, it is imperative to amend the existing Act, to cover gratuitous passengers including pillion riders also within the ambit of Liability Only Policy so as to protect their interests in the case of an accident. It is equally significant to omit the condition in sub-clause (ii) of clause (b) of sub-section (1) of section 147 of the Act restricting the coverage of insurance to only those accidents occurred in a public place. Sub-clause (ii) of clause (a) of sub-section (2) of section 150 of the existing Act empowers the Insurer to raise the following ground as a defence for claiming impunity from payment of compensation in case of an accident, *viz*:

"(ii) a condition excluding driving by a named person or by any person who is not duly licenced or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification or driving under the influence of alcohol or drugs as laid down in section 185;"

It is pertinent to note that one of the grounds, i.e. *driving under the influence of alcohol or drugs as laid down in section 185*, was not there in the original Act and that the same was subsequently incorporated *vide* the Motor Vehicles (Amendment) Act, 2019. The real intention of Legislature while passing the original Act was to protect the interests of third parties in an accident. Their insurance coverage shall not be absolved by the reason of consumption of alcohol or drugs by the driver of the offending vehicle, against which the latter can be prosecuted as per the penal provisions. It shall not preclude third parties from claiming insurance coverage. As such, it is the need of the hour to omit the said defence from the existing Act. Similarly, a condition shall also be inserted in sub-clause (ii) to protect the interests of the owner who doesn't have any knowledge or connivance in permitting a person to drive in violation of the stipulated conditions.

Furthermore, other defences provided in clause (a) of sub-section (2) of section 150 shall be restricted in such a way that the insurer shall, in such a circumstance, pay the awarded compensation in the first instance to third parties including gratuitous passengers and pillion riders and may thereafter recover the same from the insured. The Act shall perform as a welfare legislation for the benefit of third parties by ensuring that they receive the fruits of the awards obtained by them straightforwardly with an element of certainty and not to make them wait for a prolonged recovery proceeding as against the owner of the vehicle.

Similarly, sub-section (2) of section 157 of the principal Act is apparently trying to limit the protection granted under sub-section (1) thereof of deemed transfer of insurance in case

of transfer of vehicle. Further, sub-section (2) does not contain any provision explaining the consequence of not taking any such procedural steps stipulated therein by the transferee. Absence of such a provision emphasises the fact that transfer of insurance policy is controlled by sub-section (1) only, and it takes place the moment there is transfer of ownership of a vehicle together with its insurance policy. Hence sub-section (2) of section 157 of the Principal Act needs to be modified suitably.

The Motor Vehicles Act, 1988 is a benevolent social legislation in so far as the protection of interests of victims of motor accidents is concerned. It is a pressing priority that the principal Act, therefore, be amended to ensure the said purpose.

The Bill seeks to achieve the aforesaid objectives.

DR. JOHN BRITTAS.

XVIII

BILL No. LXIX OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement.

1. This Act may be called the Constitution (Amendment) Act, 2022.

2. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of article 324.

3. In article 324 of the Constitution,—

(a) for clause (2), the following clause shall be substituted, namely:—

"(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made regarding the conditions of their service by Parliament, be made by the President by warrant under his hand and seal as per the recommendations of a Committee consisting of:

(i) Chief Justice of India-Chairperson;

(ii) Speaker of Lok Sabha-Co-Chairperson; and

(iii) The leader of the largest Opposition Party in the House of the People-Member:

Provided that upon demitting office by the incumbent Chief Election Commissioner, the senior-most Election Commissioner, if any, shall be appointed as the Chief Election Commissioner, unless the Committee for reasons to be recorded in writing, finds such Election Commissioner to be unfit."

(b) in clause (5),—

(i) the words "the Election Commissioners and", shall be omitted.

(ii) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the Chief Election Commissioner or the Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner or the Election Commissioner shall not be varied to his disadvantage after his appointment."

(iii) in the second proviso, the words "any other Election Commissioner or", shall be omitted.

(c) for clause (6), the following Clause shall be substituted, namely:—

"(6) (1) The Election Commission shall have a separate independent and permanent secretarial staff.

(2) The Election Commission may, by rules prescribed by it, regulate the recruitment, and the conditions of service of persons appointed, to its permanent secretarial staff.

Provided that, without prejudice to the above, the President, or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission under clause (1)."

STATEMENT OF OBJECTS AND REASONS

The Election Commission of India (hereinafter referred to as 'ECI') is an independent constitutional body, which has been vested with the powers of superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President by virtue of article 324(1) of the Constitution. On 1st October 1993, the President of India, in exercise of powers conferred by clause 2 of article 324 of the Constitution, fixed, until further orders, the number of Election Commissioners (other than the Chief Election Commissioner) at two.

2. The power to appoint the Chief Election Commissioner (CEC) and the Election Commissioners lies with the President as per article 324(2) of the Constitution. Consequently, owing to the absence of any Parliamentary law governing the method of appointment, the Election Commissioners are appointed by the Government of the day, without pursuing any consultation process. Given the importance of maintaining the neutrality of the Election Commission and to shield the CEC and other Election Commissioners from executive or political interference, it is imperative that the appointment of Election Commissioners shall be through a consultative process.

3. Although the issue of appointments was discussed in the Constituent Assembly and suggestion was floated to make the appointments to Election Commission subject to confirmation by a two-thirds majority in a joint session of both Houses of the Parliament, it was rejected. However, the Constituent Assembly took note that maintaining the neutrality and independence of Election Commission is *sine qua non* as can be discerned from Dr. B. R. Ambedkar's speech in the meeting of the Constituent Assembly of India held on 15.06.1949, wherein he expressed the opinion, "Therefore, so far as the fundamental question is concerned that the election machinery should be outside the control of the executive Government, there has been no dispute."

4. The Dinesh Goswami Committee Report on Electoral Reforms in 1990 recommended a change to the extant appointment process, suggesting that the CEC should be appointed by the President in consultation with the Chief Justice of India and the Leader of the Opposition in the Lok Sabha and that the CEC should be additionally consulted on the question of appointment of the other Election Commissioners and that the entire consultation process should have statutory backing. This was followed by the introduction of the Constitution (Seventieth Amendment) Bill 1990 in the Rajya Sabha on 30th May 1990 providing that the CEC would be appointed by the President after consultation with the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha, and the Leader of the Opposition (or the leader of the largest party) in the Lok Sabha. The CEC was also proposed as party to the consultative process in the appointment of other Election Commissioners. However, on 13th June 1994, the Government withdrew the said Bill.

5. Though, the Parliament enacted the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act in 1991 in exercise of the powers conferred by clause 2 of article 324 of the Constitution, the same doesn't prescribe for the appointment procedure of CEC or Election Commissioners, thereby warranting the amendment of article 324(2) itself so as to provide an ironclad procedure for recruitment to the Election Commission. The Socio-political scenario prevailing in the country has undergone a sea change over the last three decades. It is imperative that the appointment of all Election Commissioners, including CEC, should be made by the President as per the recommendations of a three-member Selection Committee, consisting of the Chief Justice of India, Speaker of the Lok Sabha and the Leader of the largest Opposition Party in the House of the People. Furthermore, the senior-most Election Commissioner shall be appointed as the CEC upon demitting office by the incumbent CEC, unless the three member committee, for reasons to be recorded in writing, finds such Commissioner unfit.

6. Likewise, article 324(5) of the Constitution is intended to ensure the independence of the ECI and free it from external, political interference and thus expressly provides that

the removal of the CEC from office shall be on like manner and on the like grounds as a Judge of the Supreme Court. But a similar impeachment procedure is not prescribed for other Election Commissioners under Article 324(5), and they are treated on par with the Regional Commissioners and can be removed from office on CEC's recommendation.

7. The ECI in its 2004 Report categorically opined that the current wording of article 324(5) was "inadequate" and required an amendment to bring the removal procedures of Election Commissioners on par with the CEC, so as to provide them with the same protection and safeguards as the CEC. Equating the removal procedures of the two Election Commissioners with that of the CEC is also in line with the legislative intent of the Parliament. In the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991, the retirement age of the CEC was fixed at 65 years, with a salary and other perquisites equal to that of a Supreme Court judge; whereas that of other Election Commissioners were initially fixed at 62 years with benefits equivalent to a High Court judge. However, in 1993, the above Act was amended and the CEC and other Election Commissioners were placed on par on matters of retirement age, salaries and other benefits. Section 10 of the Act also provided for all three members to have an equal say in the decision making process, with any difference in opinion being resolved "according to the opinion of the majority". Besides, the Supreme Court, in T.N. Seshan, Chief Election Commissioner vs Union of India & Ors, held that the CEC was not superior to the Election Commissioners. CEC functions as a first amongst equals. As such it is necessary to extend the protection of service available to CEC, in the matter of removability from office, to other Election Commissioners as well.

8. Furthermore, the ECI at present has a separate secretariat of its own, with the service conditions of its officers and staff being regulated by the rules made by the President under article 309 of the Constitution. Officers at the higher level, such as the level of deputy election commissioner are normally appointed on a tenure basis on deputation from the national civil services. Lower level officers are permanent officers in the ECI's secretariat, from its own ranks. To strengthen the independence of the secretariat, consonant with the intention of the framers of the Constitution, the Goswami Committee recommended that the ECI should have an independent secretariat, along the lines of article 98(2) of the Constitution relating to Rajya Sabha Secretariat and Lok Sabha Secretariat. This recommendation was also duly considered in the ill-fated Constitution (Seventieth Amendment) Bill, 1990 which was subsequently withdrawn (*supra*). If the Secretariat of ECI is insulated from Executive interference on the issues of appointments, promotions etc., along the lines of the Secretariats of the Lok Sabha, Rajya Sabha, Registries of the Supreme Court and High Courts, etc., it will further strengthen the independence of ECI. It is of paramount importance to ensure that the ECI, entrusted with the task of conducting elections throughout the country, be fully insulated from political pressure or Executive interference to maintain the purity of elections. In these circumstances, it is vital to amend article 324 to have a permanent independent secretariat for the ECI.

9. Likewise, the Law Commission of India, in one of its Reports on Electoral Reforms recommended modifications of the extant Election Commission system in line with the above mentioned aspects, though not in its entirety.

10. In the light of the above, it can be found that there is a pressing priority to amend article 324 of the Constitution of India to achieve the aforementioned goals.

The Bill seeks to achieve the said objectives.

DR. JOHN BRITTAS.

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter alia* provides that the Election Commission shall have a separate independent and permanent secretarial staff. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage to quantify the expenditure that may be involved.

XIX

BILL NO. LX OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. In the Eighth Schedule to the Constitution—

(a) entry 22 shall be re-numbered as entry 23; and

Amendment of
Eighth
Schedule.

(b) before entry "23" as so re-numbered, the entry "22. Tulu." shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Tulu is a Dravidian language which is spoken by a large number of people living in the two southern coastal districts of Karnataka and Kasaragod district of Kerala. As per the latest census, there are 18,46,427 native speakers of the Tulu language. Tulu is a rich language with a great cultural tradition that dates back to the fourteenth and fifteenth centuries. Many Linguists including S.U. Panniyadi, L.V. Ramaswami Iyer and P.S. Subrahmanyam stated that Tulu is one of the oldest Languages in the Dravidian family which split autonomously from its Proto-Dravidian roots nearly 2,000 years ago. The famous linguist Robert Caldwell also conducted a detailed study of the Tulu language, and called it one of the most developed Dravidian languages. Even though the Tulu language is called one of the most developed Dravidian languages. Even though the Tulu language has been generating much enthusiasm among linguists, Tulu is the only 'developed language' that has not yet received official recognition. The language is now struggling to preserve its separate identity and rich cultural heritage. The inclusion of Tulu into the Eighth Schedule to the Indian Constitution shall certainly enhance the status of the language and shall place it on equal footing with other official languages.

The demand to include Tulu in the Eighth Schedule to the Constitution has a long history of peaceful campaigns and deliberations. Yet, the demand is continuously neglected, while other languages with a smaller number of speakers are already included in the Eighth Schedule. Hence, the demand for the recognition of Tulu as an official language reflects the genuine concern of the native people, their cry for denial of justice and their struggle for equality. Apart from that, article 29 of the Constitution deals with the "Protection of interests of minorities" and clause (1) states that "*Any section of the Citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.*" Therefore, the official recognition of the Tulu language would be in the spirit of article 29 of the Constitution. In order to protect, preserve and uphold the rich linguistic culture and tradition of the Tulu-speaking people, it is critically important to recognise the Tulu language as an official language of the country and incorporate the same into the Eighth Schedule to the Constitution of India.

Hence, this Bill.

SANDOSH KUMAR P.

XX

BILL No. LXXXII OF 2022

A Bill to provide for the establishment of a National Commission for Controlling Medical Inflation in order to monitor, regulate and standardise the rising costs of medicines, medical diagnostic tests and pathological examinations, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the National Commission for Controlling Medical Inflation Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Commission" means the National Commission for Controlling the Medical Inflation established under section 3; and

(c) "diagnostic laboratory" means a place owned or run by an industrial or a group of persons or by a private or corporate hospital where pathological tests or investigations are conducted on the advice of a bonafide medical practitioner;

(d) "diagnostic tests" means a variety of physical examinations both invasive and non-invasive, given by medical professionals to confirm the presence or absence of illness or disease in patients, which may include, but not limited to,—

(i) all such pathological tests that are prescribed by qualified doctors whether in a private clinic or a private and/or corporate hospital; and

(ii) all such scanning or imaging services, namely, x-ray, ultrasound, MRI, or CT scan, whether done in a private clinic or a private or corporate hospital;

(e) "medical expenditure" means expenses related to necessary medical, surgical, x-ray or dental services, including prosthetic devices, and necessary ambulance, hospital, professional, nursing and funeral services;

(f) "medical inflation" means an increase in the average medical expenditure per person from year to year;

(g) "medical practitioner" means a person who holds a valid registration or licence from the Medical Council of any State or Medical Council of India or Council for Indian Medicine or for Homeopathy set up by the Government of India or a State Government and is thereby entitled to practice medicine within its jurisdiction, and is acting within the scope and jurisdiction of the registration or license; and

(h) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Commission for Controlling Medical Inflation in the country in order to monitor, regulate and control the rising costs of medicines, medical diagnostic tests and pathological examinations.

(2) The Commission shall consist of—

(a) Chairperson;

(b) Deputy Chairperson; and

(c) Five members to be appointed by the President by warrant under his signature and seal from amongst the persons having special knowledge and vast experience in the field of public health, healthcare management, hospital and diagnostic tests industry.

(3) The Central Government may appoint such number of officers and staff including experts to the Commission as may be required for its efficient functioning.

(4) The salary and allowances payable to, and other terms and conditions of service of the Chairperson, Deputy Chairperson, members, officers, staff and experts of the Commission shall be such as may be prescribed.

(5) The Commission shall have the power to regulate its own procedure.

4. The Commission shall perform functions which shall include but not be limited to, the following:—

(a) to monitor the rising medical expenses and out-of-pocket expenses regularly, and take necessary steps to control the medical inflation in the country;

(b) to standardise the prices of essential medicines, medical diagnostic tests, pathological tests and all other relevant medical and allied services across the country in order to reduce out-of-pocket expenses;

(c) to determine the upper limit of the fee charged for each type of medical procedure, test and service from time to time in consultation with the appropriate Governments;

(d) to draft a national policy for the standardisation of medical expenses and design an appropriate quality assurance framework for both public and private service providers;

(e) to prepare a standard template for determining the cost of procedures including medical diagnostic tests and pathological tests;

(f) to conduct detailed costing exercise for hospitals across the country in order to determine average costing modalities and cost inputs under various components so as to streamline reimbursements as well as the pricing of healthcare services;

(g) to ensure the rational prescription of drugs by each medical practitioner with their generic names written legibly in capital letters; and

(h) to submit reports to the President regarding the activities undertaken by it while performing the functions referred to in clauses (a) to (f) and containing its recommendations, on annual basis or at such intervals as may be prescribed.

5. (1) The President shall cause to be laid before each House of Parliament, all the reports submitted to him under clause (g) of section 4 along with a memorandum explaining the reasons for not accepting any of the recommendations made thereon.

(2) Where the report or any of its part is related to any of the issues connected with the State Government, a copy of such report shall be forwarded to the Governor of that State, who shall in turn, along with an explanatory memorandum concerned with the action taken or proposed to be taken on the recommendations related to the State, if any, and reasons for not accepting any of the recommendations, cause to be laid such report before the State legislature.

Report to be laid before each Houses of the Parliament and State Legislatures.

6. The Commission shall, for the purposes of discharging its functions under this Act, have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit and, in particular in respect of the following matters, namely:—

Commission to have powers of Civil Court.

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

7. The appropriate Government shall consult the Commission on all policies related to the control and monitoring of medical inflation.

Appropriate Government to consult the Commission.

8. The Central Government shall, after due appropriation made by Parliament by law on this behalf, provide adequate funds to the Commission for carrying out the purposes of this Act.

Central Government to provide adequate funds to the Commission.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

Act to have
an overriding
effect.

Power to
make rules.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In India, the Directive Principles of State Policy mandate the State to ensure the health and well-being of the workers, children and general public. Apart from that, the judicial review process has put the right to health under the purview of article 21 of the Constitution of India. Yet, affordable health care is a distant dream for a large number of people in the country. Every year, healthcare expenses are increasing at a very fast rate and even the middle class cannot afford hospitalisation.

2. In the year 2021, India witnessed the highest medical inflation rate of 14 per cent among Asian countries. As per the official data of the Ministry of Statistics and Programme Implementation, the cost of medical treatment in India went up by 7.21 per cent in April 2022. There is an accelerating rate of increase in the price of medicines, pathological diagnosis, hospitalisation and everything related to healthcare. This trend is more evident after the pandemic. A record 55 million Indians were pushed into poverty because of the high out-of-pocket (OOP) health expenses. This is more than the population of three countries—South Korea, Spain and Kenya. As of now, the out-of-pocket expenditure of an individual for healthcare is 63 per cent in India. This means that whether an individual has private health insurance or visits a Government healthcare facility for treatment, they will have to spend a significant amount from their pocket for getting treated in the country.

3. One of the most critical reasons for the high medical inflation is the exorbitant rate of medicines, diagnostic tests, pathological examination and cost of other allied services. The recent Economic Surveys also state that, there are wide differences in the average prices of medical diagnostic tests across cities. The available data reflects that a Lipid Profile Test can cost a minimum of Rs. 90 and a maximum of Rs. 7,110 in various States. Similarly, the cost of a 2D Echo Test varies from Rs. 500 to Rs. 5200, and Liver Function Test costs range between Rs. 100 to Rs. 2500.

4. Diagnosis tests provide vital information to make informed decisions about treatment methods. Hence, limited affordability and less access to quality diagnostic and medical services are among the major challenges contributing to delayed or inappropriate responses to disease control and patient management. The recent findings of the Household Health Expenditure survey in India indicate that about 10 per cent of Out -of- pocket expenses are spent on diagnostic tests. Still, there is hardly any effective mechanism to monitor, control, regulate and standardise the price of these tests and essential drugs. Most hospitals follow market-based pricing for tests and allied services.

5. Therefore, there is an urgent need to regulate, monitor and standardise the price set by corporate hospitals, the differential pricing of drugs, and the functioning of pharmaceutical companies and diagnostic laboratories. The proposed Bill seeks to attain the objectives mentioned above through the establishment of the National Commission for Controlling Medical Inflation in the country.

Hence, the Bill.

SANDOSH KUMAR P.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the National Commission for Controlling Medical Inflation to carry out the responsibilities assigned to it. It also provides for the appointment of a Chairperson, Deputy Chairperson, members, officers, staff and experts to the Commission. Clause 8 provides for the Central Government to provide adequate funds for the functioning of the Commission.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India which cannot be estimated at present. Recurring expenditure is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XXI**BILL No. LXXII OF 2022**

A Bill further to amend the Constitution of India.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 124.

2. In article 124 of the Constitution of India, in clause (2), for the words "on the recommendation of the National Judicial Appointments Commission", the words, "on the recommendation of the National Judicial Commission" shall be substituted.

3. For articles 124A, 124B and 124C of the Constitution, the following articles shall be substituted, namely:—

Substitution
of articles
124A, 124B
and 124C.

"124A. (1) There shall be a Commission to be known as the National Judicial Commission consisting of the following, namely:—

National
Judicial
Commission

(a) the Chief Justice of India, Chairperson, *ex officio*;

(b) two other senior Judges of the Supreme Court next in seniority to the Chief Justice of India—Member, *ex officio*;

(c) Attorney General of India—Member, *ex officio*;

(d) two eminent persons nominated by the full court of the Supreme Court from a panel to be submitted by a Committee consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People and a nominee of the Bar Council of India—Member:

Provided that one of the eminent persons shall be jurist and the other shall be a person with specialized expert knowledge in any of the branches of social science, political science, economics etc. nominated from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes or Minorities:

Provided further that one of the eminent persons shall be a woman:

Provided further that an eminent person shall be nominated for a period of three years and shall not be eligible for renomination.

(2) A Member nominated under clause (d) of sub-section (1),—

(a) may by writing under this hand addressed to the President, resign his office;

(b) shall not be removed from office except on the unanimous recommendation of the Chairperson and all the other Members of the Commission;

(c) shall not hold any public office or engage in any legal practice whatsoever after the completion of his term; and

(d) shall be entitled to such privileges, salaries and allowances equivalent to a Judge of the Supreme Court of India.

(3) No act or proceedings of the National Judicial Commission shall be questioned or be invalidated merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

(4) The office of the National Judicial Commission shall be at New Delhi.

"124B. It shall be the duty of the National Judicial Commission to—

Functions of
the National
Judicial
Commission.

(a) recommend persons for appointment as Chief Justice of India, Judges of the Supreme Court, Chief Justice of High Courts and other Judges of High Courts;

Provided that the Commission, before making recommendations for appointment of a Chief Justice of High Court or a Judge of the High Court, shall elicit in writing the views of the Governor and the Advocate General or the Chief Minister of the State concerned in such manner as may be prescribed by the Commission;

(b) recommend transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court;

Power of
Parliament to
make law.

(c) ensure that the person recommended is of ability and integrity; and
 (d) to inquire for misbehaviour or incapacity of Chief Justice of India, Judges of the Supreme Court of India, Chief Justices of a High Courts and other Judges of High Courts and to regulate the procedure for such inquiry, under clause (4) of article 124.

124C. (1) Parliament may, by law, regulate the procedure for the appointment of Chief Justice of India and other Judges of the Supreme Court and Chief Justice and other Judges of High Courts and transfer of the Chief Justices and other Judges of the High Courts from one High Court to any other High Court.

(2) The National Judicial Commission to specify by regulations, the procedure for the discharge of its functions and duties, exercise of its powers and it such other procedure, conditions and criteria of suitability for selection and appointment of Judges of the Supreme Court, Chief Justices of High Courts and other Judges of a High Courts and transfer of the Chief Justices and other Judges of the High Courts from one High Court to any other High Court as it may consider necessary.

Secretariat of
the National
Judicial
Commission.

124.D (1) The National Judicial Commission shall have a permanent secretariat and such investigation committees, secretaries, officers and employees as may be deemed necessary by the Commission and specified by regulation and Commission shall constitute such investigation committees and appoint such number of officers and employees for the discharge of functions of the Commission.

(2) The terms and other conditions of service of officers and employees of the National Judicial Commission appointed under sub-section (1) shall be such as may be specified by regulations.

Administrative
expenses of
the National
Judicial
Commission.

124E. The administrative expenses of National Judicial Commission including all salaries, allowances and pensions payable to or in respect of officers and employees of the Commission shall be charged upon the Consolidated Fund of India.".

Amendment
of article
127.

4. In Article 127 of the Constitution, in clause (1), for the words "the National Judicial Appointments Commission", the words "the National Judicial Commission", shall be substituted.

Amendment
of article
128.

5. In article 128 of the Constitution, for the words "the National Judicial Appointments Commission", the words "the National Judicial Commission" shall be substituted.

Amendment
of article
217.

6. In article 217 of the Constitution, in clause (1), for the words, "on the recommendation of the National Judicial Appointment Commision", the words, "on the recommendation of the National Judicial Commission" shall be substituted.

Amendment
of article
222.

7. In article 222 of the Constituition, in clause (1), for the words, "on the recommendation of the National Judicial Appointments Commission", the words, "on the recommendation of the National Judicial Commission" shall be substituted.

Amendment
of article
224.

8. In article 224 of the Constituition,—

(a) in clause (1), for the words, "in consultation with the National Judicial Appointments Commission", the words "in consultation with the National Judicial Commission", shall be substituted; and

(b) in clause (2), for the words "in consultation with the National Judicial Appointment Commision", the words "in consultation with the National Judicial Commission", shall be substituted.

Amendment
of article
224A.

9. In article 224A of the Consitution, for the words "the National Judicial Appointment Commission", the words "the National Judicial Commission shall be substituted.

STATEMENT OF OBJECTS AND REASONS

1. The Judges of the Supreme Court are appointment under clause (2) of article 124 and the Judges of the High Courts are appointed under clause (1) of article 217 of the Constitution, by the President. The Ad-hoc Judges and retired Judges for the Supreme Court are appointment under clause (1) of article 127 and article 128 of the Constitutuion respectively. The appointment of Additional Judges and Acting Judges for the High Court is made under article 224 and the appointment of retired Judges for sittings of the High Courts is made under article 224A for the Constitution. The transfer of Judges from one Courts is made under article 224A of the Constitution. The tranfer of Judges from one High Court to another High Court is made by the President after consultation with the Chief Justice of India under clause (1) of article 222 of the Constitution.

2. The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association Vs. Union of India in the year 1993, and in its Advisory Opinion in the year 1998 in the Third Judges case, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of "consultation" as "concurrence". Consequently, a Memorandum of Procedure for appointment of Judges to the Supreme Court and High Courts was formulated, and is being followed for appointment.

3. Independence of judiciary is a basic feature and part of basic structure of the Constitution of India, as declared by the Hon'ble Supreme Court. Transparency and accountability in the matter of appointment of the Judges of the High Courts and Supreme Court is very much linked to this concept. It is widely accepted that the prevailing collegium system needs to be revisited in this regard. The Constitution (Ninety-nineth Amendment) Act, 2014 which proposed to establish a Ntional Judicial Appointment Commission was held to be unconstitutional by the Hon'ble Supreme Court of India in the judgement in Supreme Court Advocates-on-Record Advocates Association Vs. Union of India (2016) 5 SCC 1.

4. After review of the relevant constitutional provisions, the pronouncements of the Supreme Court and consultations with eminent Jurists, it is felt that a new broad based National Judicial Commission should be established for making recommendations for appointment of Judges of the Supreme Court and High Courts. The said Commission would provide a meaningful role for the judiciary and all the important stakeholders to present their view points and make the participants accountable, while also introducing transparency in the selection process. The role of the executive in the whole process would be drastically curbed and curtailed. The Commission shall have independence and autonomy under the Constituiton and shall have comprehensive powers for selection of Judges to the High Courts and Supreme Court and transfer of Judges of the High Courts.

5. The Bill proposes to amend the relevant provisions of the Constitution to set up a National Judicial Commision with comprehensive powers in the light of judgement in Supreme Court Advocates-on-Record Advocates Association Vs. Union of India. It seeks to substitute the articles 124A, 124B and 124C of the Constitution inserted by the Constitution (Ninety-ninth Amendment) Act, 2014 by new articles. It also seeks to bring about consequential amendment in articles 127, 128, 217, 22, 224A and 231 of Constitution. The said Bill also provides for the composition and the functions of the proposed National Judicial Commision with its own independent secretariat for its autonomous function. Further, it provides that Parliament may, by law, regulate the procedure for appointment of Judges and empower the National Judicial Commission to lay down procedure by regulation for the discharge of its functions, manner of selection of persons for appointment and such other matters as may be considered necessary.

6. The proposed Bill seeks to broad base the method of appointment of Judges in the Supreme Court and High Courts, transfer of the judges of the high Courts and for independent

inquiry for misbehaviour, misconduct and such misdemeanor of Judges. It brings about an independent autonomous constitutional institution having sufficient representation from the judiciary and important stakeholders for effective participation with greater transparency, accountability and objectivity in the appointment of the Judges in the Supreme Court and High Courts, transfer of Judges in the High Courts, and thereby strengthening independence and accountability of judiciary.

The Bill seeks to achieve the above objectives.

BIKASH RANJAN BHATTACHARYYA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter-alia* provides for nomination of two eminent persons to the National Judicial Commission who would be entitled to such privileges, salaries and allowances equivalent to a Judge of the Supreme Court. Further, clause 3 of Bill also provides for a permanent secretariat and such investigation Committees, Secretaries, officers, staffs and employees as may be deemed necessary by the National Judicial Commission and that the administrative expenses of National Judicial Commission including all salaries, allowances and pensions payable to or in respect of officers, staffs and employees of the Commission shall be charged upon the Consolidated fund of India.

This Bill, if enacted, would involve expenditure from the Consolidated Fund of India. However, it is not possible to access the actual financial expenditure likely to be incurred at this stage.

XXII

BILL NO. LXXXVI OF 2022

A Bill to regulate the procedure to be followed by the National Judicial Commission for recommending persons for appointment as the Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and for their transfers and to lay down judicial standards and provide for accountability of Judges, and establish credible and expedient mechanism for investigating into individual complaints for misbehaviour or incapacity of a judge of the Supreme Court or of a High Court and to regulate the procedure for such investigation; and for the presentation of an address by Parliament to the President in relation to proceeding for removal of a Judge and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the National Judicial Commission Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "assets" includes immovable and movable property;

Explanation.—For the purposes of this clause,—

(i) "immovable property" includes the land and any building or other structure attached to the land or permanently fastened to anything which is attached to the land, and tenancies, lease holds or any other interest in immovable property;

(ii) "movable property" includes any other property which is not immovable property as also corporeal and incorporeal property of every description and household goods and personal effects of the value of each item of more than fifty thousand rupees;

(b) "Chairman" means the Chairman of the Council of States;

(c) "Chairperson" means the Chairperson of the Commission;

(d) "Commission" means the National Judicial Commission referred to in article 124A of the Constitution;

(e) "competent authority" means in relation to,—

(i) the Judge of the High Court, the Chief Justice of that High Court;

(ii) the Chief Justice of the High Court, the Chief Justice of India;

(iii) the Judge of the Supreme Court, the Chief Justice of India;

(iv) the Chief Justice of India, the President of India;

(f) "High Court" means the High Court in respect of which recommendation for appointment of a Judge is proposed to be made by the Commission;

(g) "incapacity" means physical or mental incapacity which is, or is likely to be, of a permanent character;

(h) "investigation committee" means the investigation committee constituted under section 26;

(i) "inquiry" means an inquiry for proof of misbehaviour or incapacity;

(j) "Judge" means a Judge of the Supreme Court or of a High Court and includes the Chief Justice of India and the Chief Justice of a High Court;

(k) "judicial standards" means the values of judicial life specified in section 9, and the Schedule;

(l) "liabilities" includes financial guarantees given and all loans raised from any bank, financial institution or any other source;

(m) "Member" means a Member of the Commission and includes its Chairperson;

(n) "misbehaviour" means,—

(i) conduct which brings dishonour or disrepute to the judiciary; or

(ii) wilful or persistent failure to perform the duties of a Judge; or

(iii) wilful abuse of judicial office; or

(iv) corruption or lack of integrity which includes delivering judgments for collateral or extraneous reasons, making demands for consideration in cash or kind for giving judgments or any other action on the part of the Judge which has the effect of subverting the administration of justice; or

- (v) committing an offence involving moral turpitude; or
- (vi) failure to furnish the declaration of assets and liabilities in accordance with the provisions of this Act; or
- (vii) willfully giving false information in the declaration of assets and liabilities under this Act; or
- (viii) wilful suppression of any material fact, whether such fact relates to a period before assumption of office, which would have bearing on his integrity; or
- (ix) wilful breach of judicial standards;
- (o) "notification" means a notification published in the Official Gazette;
- (p) "prescribed" means prescribed by the rules made under this Act;
- (q) "regulations" means the regulations made by the Commission under the Constitution of India and this Act;
- (r) "Scrutiny Panel" means the Complaints Scrutiny Panel constituted under section 16 for the scrutiny of complaints; and
- (s) "Speaker" means the Speaker of the House of the People.

CHAPTER II

SELECTION FOR APPOINTMENT OF JUDGES AND THEIR TRANSFER

Reference to
Commission
for filling up of
vacancies.

3. (1) The Central Government shall, within a period of thirty days from the date of coming into force of this Act, intimate the vacancies existing in the posts of Judges in the Supreme Court and in a High Court to the Commission for making its recommendations to fill up such vacancies.

(2) The Central Government shall, six months prior to the date of occurrence of any vacancy by reason of completion of the term of a Judge of the Supreme Court or of a High Court, make a reference to the Commission for making its recommendation to fill up such vacancy.

(3) The Central Government shall, within a period of thirty days from the date of occurrence of any vacancy by reason of death or resignation of a Judge of the Supreme Court or of a High Court, make a reference to the Commission for making its recommendations to fill up such vacancy.

Procedure for
selection of
Judge of
Supreme
Court.

4. (1) The Commission shall recommend for appointment the senior-most Judge of the Supreme Court as the Chief Justice of India if he is considered fit to hold the office:

Provided that a member of the Commission whose name is being considered for recommendation shall not participate in the meeting.

(2) The Commission shall, on the basis of ability, merit and any other criteria of suitability as may be specified by regulations, recommend the name for appointment as a Judge of the Supreme Court from amongst persons who are eligible to be appointed as such under clause (3) of article 124 of the Constitution.

Procedure for
selection of
Judge of High
Court.

5. (1) The Commission shall recommend for appointment a Judge of a High Court to be the Chief Justice of a High Court on the basis of *inter se* seniority of High Court Judges and ability, merit and any other criteria of suitability as may be specified by regulations.

(2) The Commission shall seek nomination from the Chief Justice of the concerned High Court for the purpose of recommending for appointment a person to be a Judge of that High Court.

(3) The Commission shall on the basis of ability, merit and any other criteria of suitability as may be specified by regulations, nominate name for appointment as a Judge of a High Court from amongst persons who are eligible to be appointed as such under clause (2) of article 217 of the Constitution and forward such names to the Chief Justice of the concerned High Court for his views.

(4) Before making any nomination under sub-section (2) or giving his views under sub-section (3), the Chief Justice of the concerned High Court shall consult two senior-most Judges of that High Court and such other Judges and Bar of that High Court as may be specified by regulations.

(5) After receiving views and nomination under sub-sections (2) and (3), the Commission may in compliance of the mandate of clause (1) of article 124C of the Constitution recommend for appointment the person who is found suitable on the basis of ability, merit and any other criteria of suitability as may be specified by regulations.

6. The President shall, on the recommendations made by the Commission, appoint the Chief Justice of India or a Judge of the Supreme Court or, as the case may be, the Chief Justice of a High Court or the Judge of a High Court:

Power of
President to
require re-
consideration.

Provided that the President may, if considers necessary, require the Commission to reconsider, either generally or otherwise, the recommendation made by it:

Provided further that if the Commission makes recommendation with or without modifications after reconsideration, the President shall make appointment accordingly.

7. The Commission shall recommend for transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court, as per the procedure specified by regulations.

Procedure for
transfer of
Judges.

8. The Commission shall meet at such time and place as the Chairperson may direct and observe such rules of procedure in regard to the transaction of business at its meetings, as it may specify by regulations.

Procedure to
be followed by
Commission
in discharge
of its
functions.

CHAPTER III

JUDICIAL STANDARDS TO BE FOLLOWED BY THE JUDGES

9. (1) Every Judge shall continue to practice universally accepted values of judicial life as specified in the Schedule to this Act.

Judicial
standards.

(2) In particular, and without prejudice to the generality of the foregoing provision, no Judge shall—

(a) contest the election to any office of a club, society or other association or hold such elective office except in a society or association connected with the law or any court;

(b) have close association or close social interaction with individual members of the Bar, particularly with those who practice in the same court in which he is a Judge;

(c) permit any member of his immediate family, who is a member of the Bar, to appear before him or associated in any manner with a cause to be dealt with by him;

(d) permit any member of his family, who is a member of the Bar, to use the residence in which the Judge actually resides or use other facilities provided to the Judge, for professional work of such member;

(e) hear and decide a matter in which a member of his family, or his close relative or a friend is concerned;

(f) enter into public debate or express his views in public on political matters or on matters which are pending or are likely to arise for judicial determination by him:

Provided that nothing contained in this clause shall apply to,—

(i) the views expressed by a Judge in his individual capacity on issues of public interest during discussion in private forum or academic forum so as not to affect his functioning as a Judge;

(ii) the views expressed by a Judge relating to administration of court or its efficient functioning;

(g) make unwarranted comments against conduct of any constitutional or statutory authority or statutory bodies or statutory institutions or any chairperson or member or officer thereof, in general, or at the time of hearing matters pending or likely to arise for judicial determinations;

(h) give interview, to the media in relation to any of his judgment delivered, or order made, or direction issued, by him, in any case adjudicated by him;

(i) accept gifts or hospitality except from his relatives;

(j) hear and decide a matter in which a company or society or trust in which he holds or any member of his family holds shares or interest, unless he has disclosed his such holding or interest, and no objection to his hearing and deciding the matter is raised;

(k) speculate in securities or indulge in insider trading in securities;

(l) engage, directly or indirectly, in trade or business, either by himself or in association with any other person:

Provided that the publication of a legal treatise or any activity in the nature of a hobby shall not be construed as trade or business for the purpose of this clause;

(m) seek any financial benefit in the form of a perquisite or privilege attached to his office unless it is clearly available or admissible;

(n) hold membership in any organisation that practices invidious discrimination on the basis of religion or race or caste or sex or place of birth;

(o) have bias in his judicial work or judgments on the basis of religion or race or caste or sex or place of birth.

Explanation.—For the purposes of this sub-section, "relative" means—

(i) spouse of the Judge;

(ii) brother or sister of the Judge;

(iii) brother or sister of the spouse of the Judge;

(iv) brother or sister of either of the parents of the Judge;

(v) any lineal ascendant or descendant of the Judge;

(vi) any lineal ascendant or descendant of the spouse of the Judge;

(vii) nephew or niece;

(viii) cousin brother or cousin sister; and

(ix) spouse of the person referred to in clauses (ii) to (viii).

CHAPTER IV

DECLARATION OF ASSETS AND LIABILITIES BY JUDGES

10. (1) Every Judge shall make a declaration of his assets and liabilities in the manner as provided by or under this Act.

Declaration of assets and liabilities.

(2) A Judge shall, within thirty days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to—

(a) the assets of which he, his spouse and his dependent children are, jointly or severally, owners or beneficiaries;

(b) his liabilities and that of his spouse and his dependent children.

(3) A Judge holding his office as such, at the time of the commencement of this Act, shall furnish information relating to such assets and liabilities, as referred to in sub-section (2) to the competent authority within thirty days of the coming into force of this Act.

(4) Every Judge shall file with the competent authority, on or before the 31st July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the 31st March of that year.

(5) The information under sub-section (2) or sub-section (3) and annual return under sub-section (4) shall be furnished in such form and in such manner, as may be prescribed.

Explanation.—For the purposes of this section, "dependent children" means sons and daughters who have no separate means of earning and are wholly dependent on the Judge for their livelihood.

11. The competent authority shall exhibit the document or information in relation to a declaration of assets and liabilities of Judges,—

Making available document or information in relation to a declaration of assets and liabilities of Judges on website.

(a) in the case of Judges and Chief Justices of the High Courts, on the website of the High Court in which such Judges and Chief Justice are serving;

(b) in the case of Judges of the Supreme Court and Chief Justice of India, on the website of the Supreme Court.

12. The competent authority shall keep the documents or information forms containing the details of the assets and liabilities and other particulars in relation thereto filed by the Judges in its safe custody for such period as may be decided by the Commission and make available to it, as and when, on demand.

Maintenance of records.

CHAPTER V

MAKING OF COMPLAINT

13. Any person making an allegation of misbehaviour or incapacity in respect of a Judge may file a complaint in this regard to the Commission.

Complaints.

14. The complaint under section 13 shall—

Manner of making of complaint.

(a) be in such form and filed in such manner as may be prescribed;

(b) set forth particulars of the misbehaviour or incapacity which is the subject matter of allegation;

(c) be verified at the foot of the complaint by the complainant and shall specify, by reference to the numbered paragraphs of the complaint, what he verifies of his own knowledge and what he verifies upon information and shall refer to the source of the information.

Reference to Scrutiny Panel.

15. Save as otherwise provided under this Act, the Commission shall refer all such complaints to the appropriate Scrutiny Panel constituted under Chapter VI for scrutiny.

CHAPTER VI

COMPLAINTS SCRUTINY PANEL

Constitution of Complaints Scrutiny Panel.

16. There shall be constituted a panel to be called "Complaints Scrutiny Panel" in the Supreme Court and in every High Court to scrutinise the complaints against a Judge received under this Act.

Composition of Scrutiny Panel.

17. (1) The Scrutiny Panel in the Supreme Court shall consist of a former Chief Justice of India and two Judges of the Supreme Court to be nominated by the Commission.

(2) The Scrutiny Panel in every High Court shall consist of a former Chief Justice of that High Court and two Judges of that High Court to be nominated by the Commission in consultation with the Chief Justice of that High Court.

Functions of Scrutiny Panel.

18. (1) If the Scrutiny Panel, after scrutiny of the complaint referred to it for scrutiny under section 15, and after making scrutiny of the complaint, as it deems appropriate, is satisfied that—

(a) there are sufficient grounds for proceeding against the Judge, it shall, after recording reasons therefore, submit a report on its findings to the Commission, within three months of receipt of such complaint, for making inquiry against the judge in accordance with the provisions of this Act; and

(b) the complaint is frivolous or vexatious, or is not made in good faith, or only with a view to scandalize or intimidate a judge or there are not sufficient grounds for inquiring into the complaint, or the complaint relates only to the merits of the judgment or a procedural order, and, then, it shall after recording reasons therefore submit a report on its findings to the Commission, within three months of receipt of such complaint, for further action in accordance with the provisions of this Act.

(2) The Commission on considering the report of the Scrutiny Panel under clause (b) of sub-section (1) above may treat the matter as closed or if it found that there are sufficient grounds for inquiring into the complaint, reasons recorded, order inquiry against the Judge in accordance with the provisions of this Act.

(3) If the complaint is found frivolous or vexatious or is not made in good faith or only with a view to scandalize or intimidate a Judge, the Commission may take further action in accordance with the provisions of this Act.

(4) The scrutiny of complaints under this section by the Scrutiny Panel shall be held in camera.

Procedure of Scrutiny Panel.

19. Save as otherwise provided in this Act, the Scrutiny Panel shall have power to regulate its own procedure in scrutinising the complaints referred to it for scrutiny under section 15.

Powers relating to scrutiny of complaints.

20. The Scrutiny Panel shall, while scrutinising the complaints forwarded to it for scrutiny under section 15, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or other documents; and

(f) any other matter which may be prescribed.

21. (1) The Chief Justice of India shall, determine the nature and categories of the officers and other employees required to assist the Scrutiny Panel referred to in sub-section (1) of section 17 in the discharge of its functions and provide the Scrutiny Panel with such officers and other employees as he may think fit.

(2) The Chief Justice of the High Court shall, determine the nature and categories of the officers and other employees required to assist the Scrutiny Panel referred to in sub-section (2) of section 17 in the discharge of its functions and provide the Scrutiny Panel with such officers and other employees as he may think fit.

Provisions for officers and other employees of Scrutiny Panel.

CHAPTER VII

A. POWERS AND FUNCTIONS OF JUDICIAL COMMISSION IN THE MATTER OF INQUIRY OF COMPLAINTS AND PROCEDURE FOR THE SAME

22. The Commission shall, within three months of the receipt of a complaint relating to misbehaviour of—

Procedure for complaints received by the Commission.

(a) an individual Judge of the Supreme Court or Chief Justice of a High Court, refer the complaint, to the Scrutiny Panel of the Supreme Court to scrutinise and report thereon;

(b) an individual Judge of a High Court, refer the complaint, to the Scrutiny Panel of the High Court in which such Judge is acting as such, to scrutinise and report thereon.

(c) the Chairperson of the Commission, the Commission without the Chairperson shall nominate another judge or a retired Chief Justice of India in his place as a member of the Commission for the limited purpose of the inquiry.

(d) a judge of the Supreme Court who is a member of the Commission without that member shall nominate another Judge of the Supreme Court in his place as a member of the Commission for the limited purpose of the inquiry.

23. The Commission shall maintain a record of the complaints referred to the Scrutiny Panel.

Records of complaints forwarded to Scrutiny Panel.

24. A complaint against the Chief Justice of India shall not be referred to the Scrutiny Panel for scrutiny but shall be scrutinised by the Commission, without the Chief Justice of India.

Procedure for complaints against the Chief Justice of India.

25. After the commencement of the proceedings relating to a complaint against a Judge, if any change arises in the composition of the Commission due to retirement, resignation or elevation or any other reason, the proceedings of the Commission shall continue from the stage from which it was pending before such change and the Chairperson of the Commission shall make such incidental changes, as he deems necessary, to continue the proceedings.

Procedure for proceedings following change in composition of the Commission.

B. CONSTITUTION OF INVESTIGATION COMMITTEE, ITS POWERS AND FUNCTIONS AND PROCEDURE FOR INVESTIGATION

26. (1) The Commission, shall for the purpose of inquiry for misbehaviour by a Judge, constitute an investigation committee, by whatever name called, to investigate into the complaint in respect of which the Commission found necessary under sub-sections (c) and (d) of section 22 or section 24 or the Scrutiny Panel has recommended in its report under

Investigation by investigation committee.

clause (a) of sub-section (1) of section 18 for making inquiry against the Judge in accordance with the provisions of this Act.

(2) The composition and tenure of the investigation committee shall be such as may be decided by the Commission:

Provided that the number of the investigation committees, in no case, at a time, shall exceed three:

Provided further that the Commission may, having regard to the nature of misbehaviour of a Judge, may constitute different investigation committees for inquiry into different complaints.

Powers of the Commission and investigation committee.

27. The Commission, shall, for the purpose of proceedings under this Act and the investigation committee, while conducting any investigation under this Chapter, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or other documents; and

(f) any other matter which may be prescribed.

Search and seizure by investigation committee.

28. (1) If the investigation committee has reason to believe that any documents which, in its opinion, will be useful for, or relevant to, any preliminary investigation or inquiry, are secreted in any place, it may authorise any officer subordinate to it, or any officer of an agency referred to in section 42, to search for and to seize such documents.

(2) If the investigation committee is satisfied that any document seized under sub-section (1) would be evidence for the purpose of any investigation and that it would be necessary to retain the original document in its custody, it may so retain the said document till the completion of such investigation or retain a copy of such document, as it may deem fit.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if, for the word "Magistrate", wherever it occurs, the words "investigation committee or any officer authorised by it" were substituted.

2 of 1974.

Assistance to investigation committee by Government agency.

Ex parte investigation.

Investigation into act or conduct of certain other persons in certain cases.

29. The investigation committee shall be entitled to make a request to the Commission for assistance to it and the Commission may invoke its powers in this behalf under section 42 of this Act.

30. If a Judge, to whom notice is issued by the investigation committee referred to in section 26, refuses to appear before it or does not co-operate with it in conducting investigation, then, the investigation committee may proceed *ex parte*.

31. The investigation committee may cause investigation into any act or conduct of any person, other than the Judge concerned, in so far as it considers necessary so to do for the purpose of its investigation into any allegations made against a Judge and shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

32. The investigation committee, after completion of the inquiry in respect of a complaint, shall submit its findings to the Commission.

C. INQUIRY PROCEDURE OF INVESTIGATION COMMITTEE

33. (1) The investigation committee shall frame definite charges against the Judge on the basis of which the inquiry is proposed to be held.

(2) Every such inquiry shall be conducted in camera by the investigation committee.

(3) The charges framed under sub-section (1) together with the statement of grounds on which each such charge is based shall be communicated to the Judge and he shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified by the investigation committee.

(4) The investigation committee shall hold every such inquiry as expeditiously as possible and in any case complete the inquiry within a period of six months from the date of receipt of the complaint:

Provided that the Commission shall complete the inquiry by a further period of six months.

34. Save as otherwise provided, the investigation committee shall have power to regulate its own procedure in making the inquiry and shall give reasonable opportunity to the Judge of cross examining witnesses, adducing evidence and of being heard in his defence.

Submission of report by investigation committee.

Procedure in inquiries by investigation committee.

Investigation committee to have power to regulate its own procedure.

35. The Central Government may, if requested by the investigation committee, appoint an advocate to conduct the cases against the Judge.

Central Government to appoint an advocate to conduct cases against judge.

D. STAFF OF COMMISSION

36. (1) The Commission shall, for the purpose of performing its functions under this Act, appoint a Secretary and such other officers, staffs and employees possessing such qualifications, as specified by regulations from time to time.

Staff of the Commission.

(2) The terms and conditions of service of the Secretary, officers, staffs and employees referred to in sub-section (1) shall be as specified by regulations from time to time.

(3) The Commission shall provide such number of its officers and other employees to assist the investigation committee as the Commission considers appropriate having regard to the nature of investigation in a case.

E. PENALTIES ON CONCLUSION OF INQUIRY

37. During the pendency of the inquiry by the investigation committee, the Commission may recommend stoppage of assigning judicial work including cases assigned to the Judge concerned if it appears to the Commission that it is necessary in the interest of fair and impartial scrutiny of complaints or investigation or inquiry.

Stoppage of assigning work in certain cases.

38. (1) If the Commission on receipt of the report from the investigation committee is satisfied that—

Procedure on receipt of report of investigation committee.

(a) no charges have been proved, it shall dismiss the complaint and matter be closed and no further action shall be taken against the Judge and the complainant shall be informed accordingly; and

(b) all or any of the charges have been proved but the Commission is of the opinion that the charges proved do not warrant removal of the Judge, it may, by order, issue advisories or warnings.

(2) Without prejudice to the provisions contained in sub-section (1), if the Commission, on receipt of the report from the investigation committee is satisfied that there has been a *prima facie* commission of any offence under any law for the time being in force by a Judge, it may recommend to the Central Government for prosecution of the Judge in accordance with the law for the time being in force.

(3) In a case where an inquiry or investigation against the Judge has been initiated and such Judge has demitted office during such inquiry or investigation, such inquiry or investigation may be continued if the Commission is of the opinion that the misbehaviour is serious in nature and requires to be inquired into or investigated and the Commission may after conclusion of inquiry forward its findings to the Central Government to take further action in the matter under relevant law for the time being in force.

Advice of President for removal of Judge.

39. If the Commission is satisfied that all or any of the charges of misbehavior or incapacity of a Judge have been proved and that they are of serious nature warranting his removal, it shall request the Judge to voluntarily resign and if he fails to do so, then, advise the President to proceed for the removal of the Judge and the President shall refer the matter to Parliament.

Filing of complaints against complainant in certain cases.

40. If the Scrutiny Panel refers a case to the Commission under sub-section (b) of section 18, the Commission shall consider the matter further and if it concurs with the conclusion of the Scrutiny Panel, it may authorise the filing of a criminal complaint against the original complainant before a competent court.

Proceedings before the Commission to be judicial proceedings.

41. All proceedings under this Act shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code, and the Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

Power to call for assistance.

42. The Commission shall be entitled to take assistance of such officers of the Central Government or State Government or any agency thereof or authority as it deems fit.

2 of 1974.

Confidentiality in complaint procedure.

43. Notwithstanding anything contained in any other law for the time being in force, the complainant and every person who participates in the scrutiny or investigation or inquiry as a witness or as a legal practitioner or in any other capacity, whether or not he seeks confidentiality about his name, shall undertake to the Commission or Scrutiny Panel or investigation committee that he shall not reveal his own name, the name of the Judge complained against, the contents of the complaint or any of the documents or proceedings to anybody else including the media without the prior written approval of the Commission:

Provided that the Commission may, if it considers appropriate, authorise any person to apprise the media or press in respect of matters relating to complaint, scrutiny or investigation or inquiry, as the case may be.

Keeping identity of complainant confidential.

44. The Commission or the Scrutiny Panel or investigation committee may, at the request of a complainant, direct that the complainant be accorded such protection, as it deems appropriate, including keeping his identity confidential, from everybody and also the Judge against whom the complaint is made.

No action for contempt to lie in certain cases.

45. After the commencement of scrutiny of complaints under this Act, no action for contempt of court shall lie or shall be proceeded with in respect of the allegations, which are the subject matter of the investigation or inquiry.

Investigation and enquiry by the Commission not to affect criminal liability.

46. Any scrutiny, investigation or inquiry pending before the Scrutiny Panel or investigation committee or Commission shall not affect the criminal liability in respect of such allegations which are the subject matter of the investigation or inquiry.

22 of 2005.

47. Notwithstanding anything contained in the Right to Information Act, 2005 or any other law for the time being in force, all papers, documents and records of proceedings related to a complaint, preliminary investigation and inquiry shall be confidential and shall not be disclosed by any person in any proceeding except as directed by the Commission:

Provided that the findings of the investigation committee and the orders passed by the Commission under clause (b) of sub-section (1) of section 38 shall be made public.

48. No suit, prosecution or other legal proceeding shall lie against the Chairperson or any member of the Commission, Scrutiny Panel, investigation committee or against any officer or employee, agency or person engaged by such committees or panel for the purpose of conducting scrutiny or investigation or inquiry in respect of anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

All records, documents etc. related to complaint, scrutiny, investigation and enquiry to be confidential.

Protection of action taken in good faith.

CHAPTER VIII

PROCEDURE FOR PRESENTATION OF AN ADDRESS FOR REMOVAL OF A JUDGE

49. The President, on receipt of advice under section 39, shall cause the findings of the Commission along with the accompanying materials to be laid before both Houses of Parliament.

Laying of advice of Commission before the Parliament.

50. On laying of the advice of the Commission along with the accompanying material, the Central Government may move a motion in either House of Parliament for taking up the said advice for consideration by the House.

Motion for removal of a Judge.

51. (1) Notwithstanding anything contained in section 49 or section 50, if a notice is given of a motion for presenting an address to the President praying for the removal of a Judge signed,—

Investigation into misbehaviour or incapacity of Judge by investigation committee for removal of Judges.

(a) in the case of a notice given in the House of the People, by not less than one hundred members of that House;

(b) in the case of a notice given in the Council of States, by not less than fifty members of that House; and

(c) Council, then, the Speaker or, as the case may be, the Chairman may, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him, either admit the motion or refuse to admit the same.

(2) If the motion referred to in sub-section (1) is admitted, the Speaker or, as the case may be, the Chairman shall keep the motion pending and the matter shall be referred to the Commission for constitution of an investigation committee under section 26.

(3) The Commission, after receipt of reference under sub-section (2), constitute an investigation committee under section 26 and the investigation committee shall conduct an inquiry in accordance with the provisions contained under Chapter VII and submit its report to the Commission for being submitted to the Speaker or Chairman, as the case may be, for consideration.

(4) Where it is alleged that a Judge is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the investigation committee may arrange for the medical examination of the Judge by such Medical Board as may be appointed for the purpose by the Speaker or, as the case may be, the Chairman.

(5) The Medical Board shall undertake such medical examination of the Judge as may be considered necessary and submit a report to the investigation committee stating therein whether the incapacity is such as to render the Judge unfit to continue in office.

(6) If the Judge refuses to undergo medical examination considered necessary by the Medical Board, the Board shall submit a report to the investigation committee stating therein the examination which the Judge has refused to undergo, and the investigation committee may, on receipt of such report, presume that the Judge suffers from such physical or mental incapacity as is alleged in the motion referred to in sub-section (1).

Consideration of report and procedure for presentation of an address for removal of Judge.

52. (1) If the report of the investigation committee contains a finding that the Judge is not guilty of any misbehaviour or does not suffer from any incapacity, then, no further steps shall be taken in either House of Parliament in relation to the report and the motion pending in the House or the Houses of Parliament shall not be proceeded with.

(2) If the report of the investigation committee contains a finding that the Judge is guilty of any misbehaviour or suffers from any incapacity, then, the motion referred to in section 50 shall together with the report of the investigation committee, be taken up for consideration by the House or the Houses of Parliament in which it is pending.

(3) If the motion is adopted by each House of Parliament in accordance with the provisions of clause (4) of article 124 or, as the case may be, in accordance with that clause read with article 218 of the Constitution, then, the misbehaviour or incapacity of the Judge shall be deemed to have been proved and an address praying for the removal of the Judge shall be presented in the prescribed manner to the President by each House of Parliament in the same session in which the motion has been adopted.

Power of Joint Committee to make rules.

53. (1) There shall be constituted a Joint Committee of both Houses of Parliament in accordance with the provisions hereinafter contained for the purpose of making rules to carry out the purposes of this Chapter.

(2) The Joint Committee shall consist of fifteen members of whom ten shall be nominated by the Speaker and five shall be nominated by the Chairman.

(3) The Joint Committee shall elect its own Chairman and shall have power to regulate its own procedure.

(4) Without prejudice to the generality of the provisions of sub-section (1), the Joint Committee may make rules to provide for the following, among other matters, namely:—

(a) the manner of transmission of a motion adopted in one House to the other House of Parliament;

(b) the manner of presentation of an address to the President for the removal of a Judge;

(c) the travelling and other allowances payable to the members of the Committee and the witnesses who may be required to attend meetings of such Committee;

(d) the facilities which may be accorded to the Judge for defending himself; and

(e) any other matter which has to be, or may be, provided for by rules or in respect of which provision is, in the opinion of the Joint Committee, necessary.

(5) Any rules made under this section shall not take effect until they are approved and confirmed both by the Speaker and the Chairman and are published in the Official Gazette, and such publication of the rules shall be conclusive proof that they have been duly made.

CHAPTER IX

OFFENCES AND PENALTIES

Intentional insult or interruption to the Commission.

54. (1) Whoever intentionally insults, or causes any interruption, to the Scrutiny Panel or investigation committee or Commission while the Commission or Scrutiny Panel or investigation committee or any of their members is doing scrutiny or conducting any

investigation or inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

2 of 1974.

(2) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973 shall apply in relation to an offence referred to in sub-section (1) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Commission.

55. If any complainant or other person, who participates in the scrutiny or investigation or inquiry as a witness or as a lawyer or in any other capacity, contravenes the provisions of section 43 or section 44 or section 47, shall be liable for punishment with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for violation of confidentiality in complaint procedure.

2 of 1974.

56. When any such offence as is described in sub-section (1) of section 54 is committed, in the view, or, in the presence, of the Commission, then the said Commission, may cause the offender to be detained in custody and may at any time on the same day take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause as to why he should not be punished under this section, try such offender summarily so far as may be in accordance with the procedure specified for summary trials under the Code of Criminal Procedure, 1973, and sentence him to simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Power of the Commission to try certain cases.

57. (1) Any person who makes a complaint which is found, after following the procedure under this Act to be frivolous or vexatious or made with an intent to scandalise or intimidate the Judge against whom such complaint is filed, shall be punishable with simple imprisonment which may extend to one year and also with fine which may extend to fifty thousand rupees.

Punishment for frivolous and vexatious complaints.

2 of 1974.

(2) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

(3) No suit, prosecution or other legal proceeding shall lie against the complainant under this section in respect of anything which is in good faith done or intended to be done under this Act.

58. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that where a company has different establishments or branches or different units in any establishment or branch, the concerned Head or the person in-charge of such establishment, branch or unit nominated by the company as responsible shall be liable for contravention in respect of such establishment, branch or unit:

Provided further that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.—*For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Offences by societies or trusts.

59. (1) Where an offence under this Act has been committed by a society or trust, every person who at the time the offence was committed was in charge of, and was responsible to, the society or trust for the conduct of the business of the society or the trust, as well as the society or trust, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a society or trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary, trustee or other officer of the society or trust, such director, manager, secretary, trustee or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "society" means anybody corporate registered under the Societies Registration Act, 1860 and, "trust" means anybody registered under the Indian Trusts Act, 1882; and

(b) "director", in relation to a society or trust, means a member of its governing board other than an *ex officio* member representing the interests of the Central or State Government or the appropriate statutory authority.

Appeal to Supreme Court.

60. Any person convicted on a trial held under sub-section (1) of section 57 may, notwithstanding anything contained in any other law for the time being in force, appeal, within sixty days of order of such conviction, to the Supreme Court.

Power of Central Government to make rules.

61. (1) The Central Government may make rules, to carry out the provisions of this Act, other than the provisions contained under Chapter VIII.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for all or any of the following matters, namely:—

(a) the form and manner in which, information is to be furnished or, annual return to be filed, under section 10;

(b) the form and manner in which complaint shall be filed under section 14;

(c) other matters in respect of which the Scrutiny Panel shall, for the purpose of scrutiny of complaint, have powers of a civil court under section 20;

(d) other matters in respect of which the Commission shall, for the purpose of inquiry or investigation of complaint have powers of a civil court under clause (f) of section 27;

(e) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule

should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

62. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, after consultation with the Commission, by an order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

63. (1) The Commission may, by notification in the Official Gazette, make regulations consistent with the Constitution of India, this Act, and the rules made thereunder, to carry out the provisions of this Act.

Power of the Commission to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the criteria of suitability with respect to appointment of a Judge of the Supreme Court under article 124C of the Constitution and sub-section (2) of section 4 of this Act;

(b) other procedure and conditions for selection and appointment of a Judge of the Supreme Court under article 124C of the Constitution;

(c) the criteria of suitability with respect to appointment of a Judge of the High Court under Article 124C of the Constitution and sub-section (3) of section 5 of this Act;

(d) other Judges who may be consulted with the Chief Justice and manner and mode of consultation with the bar under article 124C of the Constitution and sub-section (4) of section 5 of this Act;

(e) the manner of eliciting views of the Governor and the Chief Minister under clause (b) of article 124B of the Constitution;

(f) other procedure and conditions for selection and appointment of a Judge of the High Court under article 124B and 124C of the Constitution and sub-section (3) of section 5 of this Act;

(g) the procedure for transfer of Chief Justices and other Judges from one High Court to any other High Court under clause (c) of article 124B and clause (2) of article 124C of the Constitution;

(h) the procedure to be followed by the Commission in the discharge of its functions under clause (2) of article 124C of the Constitution;

(i) the rules of procedure in regard to the transaction of business at the meetings of Commission, including the quorum at its meeting under clause (2) of article 124C of the Constitution and section 8 of this Act;

(j) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

51 of 1968.
40 of 2014.

64. (1) The Judges (Inquiry) Act 1968, and National Judicial Appointments Commission Act, 2014 are hereby repealed.

Repeal and savings.

(2) Notwithstanding the repeal of the Judges (Inquiry) Act, 1968 (hereinafter referred to as the repealed Act) the rules made by the Joint Committee under section 7 of the repealed Act shall continue to be in force until rules are framed under section 53 of this Act.

(3) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken including any order or notice made or issued or any inquiry initiated under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken or initiated under the corresponding provisions of this Act.

(4) The mention of particular matters in sub-sections (2) and (3) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with 10 of 1897.
regard to the effect of repeal.

THE SCHEDULE

[*See section 9(1)*]

JUDICIAL STANDARDS

1. Norms, including punctuality and commitment to work, guidelines and conventions essential for the conduct and behaviour of Judges, being pre-requisite for an independent, strong and respected judiciary, having integrity and detachment and impartial administration of justice as reflected in the Restatement of Values already adopted by the Conference of Chief Justices held in 1999 shall be practiced by every Judge.
2. All times be conscious that he is under the public gaze and not do any act or omission which is unbecoming of the high office he occupies and the public esteem in which that office is held.
3. A degree of aloofness consistent with the dignity of his office shall be practiced by every Judge.
4. Judgments should speak for themselves.

STATEMENT OF OBJECTS AND REASONS

The Judges of the Supreme Court are appointed under clause (2) of article 124 and the Judges of the High Courts are appointed under clause (1) of article 217 of the Constitution, by the President. The *Ad-hoc* Judges and retired Judges for the Supreme Court are appointed under clause (1) of article 127 and article 128 of the Constitution respectively. The appointment of additional Judges and acting Judges for the High Court is made under article 224 and the appointment of retired Judges for sittings of the High Courts is made under article 224A of the Constitution. The transfer of Judges from one High Court to another High Court is made by the President after consultation with the Chief Justice of India under clause (1) of article 222 of the Constitution. The inquiry for misbehavior, misconduct and misdemeanor of Judges is conducted under the Judges (Inquiry) Act 1968.

2. The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association Vs. Union of India in the year 1993, and in its Advisory Opinion in the year 1998 in the Third Judges case, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of "consultation" as "concurrence". Consequently, a Memorandum of Procedure for appointment of Judges to the Supreme Court and High Courts was formulated, and is being followed for appointment.

3. Independence of judiciary is a basic feature and part of basic structure of the Constitution of India, as declared by the Hon'ble Supreme Court. Transparency and accountability in the matter of appointment of the judges of the High Courts and Supreme Court is very much linked to this concept. It is widely accepted that the prevailing collegium system needs to be revisited in this regard.

4. Accordingly, the Constitution (Ninety Ninth Amendment) Act, 2014 was enacted added by section to amend the relevant provisions of the Constitution and for setting up a National Judicial Appointments Commission. The Act inserted new articles 124A, 124B and 124C after article 124 of the Constitution to provide for the composition and the functions of the proposed National Judicial Appointments Commission. The National Judicial Appointments Commission Act, 2014 (Act No. 40 Of 2014) was also enacted *inter alia* regulate the procedure to be followed by the National Judicial Appointments Commission for recommending persons for appointment as the Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and for their transfers etc. However, these Acts were held to be unconstitutional by the Hon'ble Supreme court of India in the judgment in Supreme Court Advocates-on-Record Advocates Association Vs. Union of India (2016).

5. After review of the relevant constitutional provisions, the pronouncements of the Supreme Court and consultations with eminent Jurists, it is felt that a new broad based National Judicial Commission should be established for making recommendations for appointment of Judges of the Supreme Court and High Courts. The said Commission would provide a meaningful role for the judiciary and all other important stakeholders including the Bar to present their view points and make the participants accountable, while also introducing transparency in the selection process. The Commission shall have independent and autonomy under the constitution and comprehensive powers for selection of judges to the High Courts and Supreme Court, transfer of judges of the High Courts and inquiry for misbehavior, misconduct and such misdemeanor of the judges.

6. The Constitution (Amendment) Bill, 2022 set to be introduced in the Parliament along with the instant Bill, enables amendment of relevant provisions of the Constitution and for setting up a National Judicial Commission with comprehensive powers and in the light of judgment in Supreme Court Advocates-on-Record Advocates Association Vs. Union of India.

7. The present Bill, namely the National Judicial Commission Bill, 2022 *inter alia* provides for the time frame to initiate the process of filling up of vacancies in the Supreme Court and High Courts and the procedure for selection of Chief Justice of India, Chief

Justice of High Courts and Judges of the Supreme Court and High Courts. It further provides that the President may, if necessary, require the Commission to reconsider the recommendation. However, if the Commission makes unanimous recommendations on such reconsideration, then the President shall make the appointment accordingly.

8. Further, this Bill provides that the National Judicial Commission may make regulations *inter alia* specifying the criteria of suitability with respect to the appointment of Judges of the Supreme Court and High Courts, the procedure and conditions for selection and appointment of Judge of the Supreme Court and High Court, the procedure for transfer of Judges from one High Court to another High Court and the procedure to be followed by the Commission in the discharge of its functions. It also provides for detailed mechanism for inquiry into misbehavior, misconduct and such misdemeanor of the judges. It further provides for consequential repeal of the Judges (Inquiry) Act, 1968 and National Judicial Appointments Commission Act, 2014.

9. The Bill, thereby seeks to regulate the procedure to be followed by the National Judicial Commission for recommending persons for appointment as the Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and for their transfers and to lay down judicial standards and provide for accountability of Judges, and establish credible and expedient mechanism for investigating into individual complaints for misbehavior or incapacity of a judge of the Supreme Court or of a High Court and to regulate the procedure for such investigation; and for the presentation of an address by Parliament to the President in relation to proceeding for removal of a Judge and for matters connected therewith or incidental thereto. It facilitates to broad base the appointment of Judges in the Supreme Court and High Courts, enables participation of judiciary and other important stakeholders and ensures greater transparency, accountability and objectivity in the appointment of the Judges in the Supreme Court and High Courts, transfer of the judges of High Courts and better administration of justice.

Hence, this Bill.

BIKASH RANJAN BHATTACHARYYA.

FINANCIAL MEMORANDUM

Clause 36 of the Bill *inter alia* provides for appointment of the Secretary and other officers, staff and employees of the National Judicial Appointments Commission. Clause 53 of the Bill *inter alia* provides for payment of travelling and other allowances payable to the Members of the Joint Committee of the Houses of Parliament constituted to make rules and witnesses who may be required to attend meetings of such committee.

2. Therefore, the Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is, therefore, not possible to ascertain the expenditure so involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 61 of the Bill *inter alia* empowers the Central Government to make rules, to carry out the provisions of the proposed legislation. Clause 63 of the Bill confers power upon the National Judicial Commission to make regulations consistent with the Act and the rules made thereunder to carry out the provisions of the Act. The matters in respect of which the rules and regulations may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

XXIII

BILL No. LXXXV OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 270 of the Constitution,—Amendment of
article 270.

(i) for clause (1), the following clause shall be substituted, namely:—

"(1) All taxes and duties referred to in the Union List, the surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2):

Provided that this clause shall not apply to duties and taxes referred to in articles 268, 269 and 269A."

(ii) after clause (1B), the following shall be inserted, namely:—

"(1C) Any cess levied and collected by the Government of India under clause (1) shall be:

(a) imposed for a specific purpose clearly stated in the law imposing such cess;

(b) earmarked for a purpose that does not fall within List II of the Seventh Schedule of the Constitution; and

(c) subject to a periodic review by the Finance Commission at the end of two years of being levied to assess whether funds are being appropriately utilized and dispersed for the purpose for which it is being levied."

(iii) for clause (2), the following shall be substituted, namely:—

"(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty or cess or surcharge in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax or duty or cess or surcharge is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3)."

3. For article 271, the following article shall be substituted, namely:—Substitution of
article 271.

"271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles except the goods and services tax under article 246A, by a surcharge for a definite period of time and the whole proceeds of any such surcharge shall be distributed between the Union and the States in such manner and from such time as may be prescribed in the manner provided in article 270."

Surcharge on
certain duties
and taxes.**4. In article 280, in clause (3), for sub-clause (a), the following shall be substituted, namely:—**Amendment
of article 280.

"(a) the distribution between the Union and the States of the net proceeds of taxes, cess and surcharge, which are to be, or may be divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds."

5. After article 342A of the Constitution, the following new article shall be inserted, namely:—Insertion of
new article
342B.

"342B.(1) Notwithstanding anything in this Constitution or any law for the time being in force, the Central Government shall enumerate the socially and educationally backward classes and ascertain their respective population in the census conducted under the Census Act, 1948.

Enumeration
and census of
socially and
educationally
backward
classes.

(2) Wherever any reservation is provided for socially and educationally backward classes in this Constitution or any other law for the time being in force, the number of seats to be reserved for such socially and educationally backward classes shall be in proportion to their respective population.

Explanation.—In this clause, the expression “population” shall mean the population as ascertained at the last preceding census of which the relevant figures have been published.”

STATEMENT OF OBJECTS AND REASONS

The Constitution of India gives immense revenue-generating powers to the Central Government but puts more welfare obligations on the State Governments. The report of the 15th Finance Commission noted that the Central Government had about 62.7% of the resources but incurred only 37.6% of the expenditure, whereas the State Governments had only 37.3% of the resources but incurred 62.4% of the expenditure. A report by the Reserve Bank of India also noted that more than 60% of India's capital expenditure came exclusively from the State Governments. A comparison of the lists in the Seventh Schedule of the Constitution would also reveal that the State List enumerates more welfare obligations than the Union List.

Nonetheless, the Constitution has made provisions under article 270(1) for distributing the tax revenue collected by the Central Government between itself and the States to help them effectively carry out their welfare obligations. However, article 270(1) also permits the Central Government to levy cesses and surcharges, which it is not obligated to share with the States. Owing to this reason, over the past few years, there has been significant over-reliance of the Centre on cesses and surcharges. In 2012-13, cesses and surcharges formed 8.76% of the Centre's gross tax revenue whereas in 2020-21, this share has crossed 20%. This has caused the divisible pool of central tax revenue that is shareable with the States to shrink considerably. Both the 14th and 15th Finance Commissions recommended fixing the share of the States in the divisible pool to 42% and 41% respectively but due to the disproportionate increase in cesses and surcharges, the effective share of States has reduced to just 29 to 32%.

The matter of imposing cess has become contentious due to many reasons. First, although cesses can be implemented only for specific purposes, the Centre is levying cesses for purposes that are wide and open-ended. Recent purposes for cesses include financing of national highways, basic education, environment and infrastructure projects, which already come under the ambit of the duties of the Central Government in its discharge of general administration and are broad heads of expenditure rather than specific purposes. Second, cesses are being levied for purposes within the State List, which are *per se* not the functions of the Central Government for which it requires earmarked funds including health, agriculture and rural roads, among others. Third, the language used for levying cess is also often open-ended. For instance, the Swachh Bharat and Krishi Kalyan cess were levied to "finance and promote Swachh Bharat initiatives or related purposes" and "to finance and promote initiatives to improve agriculture or related purposes" respectively.

Objections have also been raised with respect to the imposition of surcharges. The Expert Commission on Financial Provisions appointed by the President of the Constituent Assembly envisaged that the Centre's need for imposing surcharges would arise only on rare occasions and that surcharges would not be continued for unduly long periods of time. The 8th Finance Commission also expressed concerns regarding the indefinite imposition of surcharges and recommended their withdrawal. The 10th Finance Commission noted that surcharges on income tax should not be levied except to meet emergent requirements for a limited period of time. However, historically speaking, surcharges have formed a consistent part of India's direct tax regime, which is in contradiction with the foregoing objectives and recommendations. Following the adoption of the Constitution, surcharge has been imposed every year except 1998-99.

At the same time, the Comptroller and Auditor General (CAG), in its reports, has flagged the lack of sufficient transparency in the reporting and the utilisation of the funds collected through cess and surcharges as well as discrepancies in the utilisation of the proceeds. In 2018, the CAG, through an affidavit in the Supreme Court, revealed that a majority of the funds collected under the Building and Other Construction Workers Welfare Cess Act, 1996 were spent on buying laptops and washing machines and that less than 10% was spent on the welfare of construction workers. In many cases, the cess collected was not transferred to its respective Reserve Fund. During 2020 and 2021, nearly 1.28 lakh crore

rupees was collected through cess on crude oil but was not transferred to the Oil Industry Development Board.

The disproportionate imposition of cesses and surcharges has only exacerbated the vertical fiscal imbalance between the Central Government and the State Governments. As evinced by the responsibilities in the State List, adequate financial resources must be made available to the States to maintain the overall economic health of the States as well as of the country as a whole.

Therefore, this Bill seeks to amend the Constitution to ensure that the proceeds of cess and surcharge are made shareable with the States. Additionally, it establishes definite parameters to determine how cess should be levied and collected and to limit the imposition of surcharges for a limited period of time, for ensuring greater fiscal transparency.

Furthermore, India is home to a diverse population belonging to a broad array of castes. This necessitates the availability of latest and extensive data on caste so that the Central and State Governments can design effective policies for affirmative action and resource redistribution. The caste data was first enumerated in India within the general census undertaken in 1872 and continued for the next six decades until 1931. However, in the post-independence era, in every census conducted so far from 1951 to 2011, no caste data, apart from that relating to Scheduled Castes and Scheduled Tribes has been collected. Although, the Government conducted the Socio-Economic and Caste Census (SECC) in 2011 to obtain data regarding the economic position and caste status of the Indian population, only the economic data has been made public whereas the caste data has not been released.

Our country is home to a significant population of backward classes that do not fall under the category of Scheduled Castes and Scheduled Tribes, referred to as Socially and Educationally Backward Classes (SEBCs). The Mandal Commission (1980) assessed the population of SEBCs to be 52%, back when the Indian population was at 68 crores. Since that time, the Indian population has more than doubled to 138 crore but we still do not have any updated, comprehensive and categorised data on the SEBC population in the country.

Across the world, countries have taken steps to enumerate different sections of people within their societal structure. For instance, the USA enumerates all races within its multi-racial population. The UK does a similar enumeration for immigrants having varying origins and hailing from different social backgrounds. However, India is yet to enumerate caste data on SEBCs within its demography, creating an information vacuum that has negated the formulation of objective and proportionate welfare schemes.

It is imperative to conduct a nationwide caste census to understand how various castes have progressed economically, to assess which castes have been left behind, and to devise appropriate policies for filling the existing gaps. The need for a caste census is further buttressed by the fact the proper implementation of articles 15(4) and 16(4) of the Constitution, dealing with reservations for Other Backward Classes in educational institutions and Government services, is not possible without enumerating the population of Other Backward Classes to understand the proportion of their representation in relation to various socio-economic and geographical parameters.

There has been a long-standing demand supported by wide consensus across political factions for conducting a caste census. While the Government had declared that a caste census of SEBCs is administratively difficult and cumbersome, in 2018, the then Home Minister assured that a caste-based survey would be conducted. In April 2021, the National Commission for Backward Classes also requested the Ministry of Social Justice and Empowerment to collect information on the population of Other Backward Classes in the country as a part of the 2021 general census. Similar recommendations have been made by the Parliamentary Standing Committee on Welfare of Other Backward Classes. But no efforts have been undertaken by the Central Government in this regard so far.

In light of the aforementioned, the Bill seeks to amend the Constitution to ensure that the Central Government enumerates the SEBCs and ascertains their respective population within the census conducted under the Census Act, 1948. It also provides that wherever reservation is provided for SEBCs under any law, due consideration shall be given to the population of such SEBCs in determining the number of seats to be reserved for them. This Bill will ensure much-needed caste-wise enumeration of SEBCs, which in turn, will create the foundation for scientific and rational policies for the welfare and upliftment of SEBCs.

Hence, this Bill.

V. VIJAYASAI REDDY.

XXIV

BILL NO. XC OF 2022

A Bill to provide for effective measures to prevent, prohibit and protect persons especially women from witch-branding and witch-hunting, to eliminate their torture, oppression, humiliation, killing, sexual assault, stigmatization, discrimination, ostracization by providing punishment for such offences, relief and rehabilitation of victims of such offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement. 1. (1) This Act may be called the Prevention and Prohibition of Witch-Branding and Witch-Hunting and Other Harmful Practices Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) “abettor” means any person who brands or identifies anyone as witch;

(b) “appropriate Government” means in the case of a State, the Government of that State and in all other cases the Central Government;

(c) “Court” means a Court of Metropolitan Magistrate or Judicial Magistrate of the first-class exercising jurisdiction in the area where offence is alleged to have taken place or of and other Judicial Magistrate of the first class or the Court of Sessions specified as a Special Court by sub-section (1) of section 11 of the Criminal Code;

2 of 1974.

(d) “Criminal Code” means the Code of Criminal Procedure, 1973;

(e) “police station” includes police outposts;

(f) “witch” means any person especially women, who has been branded as witch or *Daini*, *Daina*, *Dakni*, *Dakan*, *Bhootni*, *Booutuni*, *Dayan*, *Tonhi*, *Tonaha*, *Chedel*, *Chud*, *Shakan*, *Shakani*, *Bhootdi*, *Vantri*, *Daain*, *Chudail*, *Dayan*, *Dahani*, *Chetkin*, etc. by a person or persons in belief that such persons has powerintention to harm anyone;

(g) “witch-branding and witch-hunting” means identifying, calling, stigmatizing, defaming or accusing any woman as witch by any other person by words, or by signs or by indications or conducts or actions or practices or in any other manner, thereby causing or abetting physical or mental harm or execution of a person or persons which may involve mass frenzy, physical, emotional, sexual, economic and property related violence, lynching or any other activities;

45 of 1860.

(2) Words and expressions used but not defined in this Act and defined in the Criminal Code or the Indian Penal Code, 1860 shall have the same meanings as assigned to them in the Criminal Code and Indian Penal Code.

3. Witch-branding and witch-hunting is hereby prohibited.

Prohibition of
witch-
branding and
witch-hunting.

CHAPTER II

PUNISHMENT FOR OFFENCES

4. (1) Whoever contravenes the provision of section 3 shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend up to seven years and with fine, which shall not be less than one lakh rupees but which may extend to five lakh rupees:

Punishment
for witch-
branding and
witch-hunting.

Provided that the Court may, for adequate and special reasons, to be recorded in the judgment, impose a sentence of imprisonment of either description for a term of less than one year.

(2) Any person convicted of an offence of witch-branding and witch-hunting shall be disqualified from inheriting, or taking on lease, rent or by any other means, the property of the person against whom such offence has been committed.

45 of 1860.

5. Whoever, assaults or uses violent force against a person accusing such person to be a witch, resulting in her or his death, shall be punished in accordance with section 302 of the Indian Penal Code, 1860.

Punishment
for causing
death.

6. Whoever intimidates a person identifying, calling, stigmatizing, defaming or accusing such person to be a witch and does any act leading or compelling the person to commit suicide shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Punishment
for abetment
of suicide.

Punishment
for use of
criminal force
for displacing
a person from
lawfully
occupied
property.

7. Whoever, on the pretext of witch-branding and witch-hunting a person uses criminal force against such person or instigates or provokes others in doing so with the intent to harm or to displace the person from the house, agricultural land, village or the property, lawfully occupied or owned by him or her or interferes with his or her rights over any land or premises or to coerce him or her to leave the house or village of which he or she is a rightful owner, resident or a visitor, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees.

Punishment
for using
criminal force
to outrage
modesty.

8. Whoever, on the pretext of witch-branding and witch-hunting a person assaults or uses criminal force against such person to remove or causes to remove clothes from his or her body and demonstrates and parades him or her naked or with such scanty clothes that fail to protect his or her modesty, shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to ten years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Punishment
for torture.

9. Whoever, on the pretext of witch-branding and witch-hunting a person—

(i) subjects that person to any form of torture including acts of stoning, hanging, stabbing, dragging, public beatings, cutting or burning any part of the body or of hair, forced hair shavings, pulling of nails or teeth out, cutting of nose or other body-parts, blackening of face, whipping, branding with hot objects or use of any other blunt or sharp weapons or objects; or

(ii) forces that person to perform public acts of humiliation or to eat human excrement or to drink urine or to drink or eat inedible or obnoxious substances or to socially ostracized or to stigmatize for life or to prohibit to participate in auspicious occasions, to curtail movements and employment or subjects him or her to taunts, slurs and other verbal abuses, shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees.

Punishment
for damaging
reputation,
dignity etc.

10. Whoever, on the pretext of witch-branding and witch-hunting a person, damages his or her reputation and dignity, or with intention to sexually exploit or to extort money or the property, or any other ulterior motive, identifies, calls, stigmatizes, defames or accuses a person as witch, shall be punished with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years and with a minimum fine of one lakh rupees which may extend to five lakh rupees.

Punishment
for attributing
misfortune.

11. Whoever, on the pretext of witch-branding and witch-hunting a person, blames such person of any misfortune that befalls his or her village or area or locality or community which may also include natural disasters, such as droughts, floods, crop loss, illness, death of cattle or any death in the village, shall be punished with imprisonment of either description for a term which may extend to three years and with fine which shall not be less than one lakh rupees which may extend to five lakh rupees.

Punishment
for causing
disappearance
of evidence.

12. Whoever, knowingly or having reasons to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of shielding the offender from legal punishment, or with that intention misleads investigation or gives any information, regarding the offence, which he knows or believes to be false, shall, be liable for punishment as provided under sections 182 and 201 of the Indian Penal Code, 1860.

Punishment
for attempt to
commit
offences.

13. Whoever, attempts to commit any offence under this Act and does any act towards such commission shall be liable for punishment in accordance with the provisions of section 511 of the Indian Penal Code, 1860.

14. (1) Whoever, abets any offence under this Act, shall be liable for the same punishment provided for that offence under the relevant provisions of this Act.

Punishment for abetment of offence.

(2) A public servant who wilfully refuses to register a complaint for an offence under this Act or neglects the investigation or tries to withhold facts and evidences relating to the complaint with intention to minimize the gravity of the offence shall be deemed to have abetted the offence and shall be liable for punishment for the offence as provided under this Act.

15. If it is established that there has been community involvement in causing such offences under this Act, everyone of the community involved shall be punished with which shall not be less than one lakh rupees each but may extend to five lakh rupees and whoever fails to deposit the said fine shall undergo one year imprisonment in addition to the punishment imposed upon him by the court fixing specific accusations in the proceeding.

Punishment for community involvement.

CHAPTER III

TRIAL OF OFFENCES

16. Notwithstanding anything contained in the Criminal Code, every offence under this Act shall be cognizable, non-bailable and non-compoundable.

Offences to be cognizable, non-bailable and non-compoundable.

17. Any person, who wilfully or otherwise, fails to pay the fine ordered by a Court, shall be liable to undergo imprisonment as provided under section 64 of Indian Penal Code, 1860.

Imprisonment for non-payment of fine.

18. (1) The fine realized as punishment for an offence under this Act shall be paid to the victim as compensation.

Provision for compensation to the victim.

(2) The compensation paid under sub-section (1) shall not be compounded with any other compensation or financial assistance which the appropriate Government may decide to pay as immediate relief to the victim or the rehabilitation grant payable under section 24.

19. Subject to the provisions of the Criminal Code, the aggrieved person shall be eligible to file an appeal to the next higher Court within ninety days of the date on which the Court concerned has passed the order:

Appeal.

Provided that the Court may entertain an appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the stipulated period.

CHAPTER IV

LEGAL PROCESSES FOR SPEEDY JUSTICE

20. (1) It shall be the duty of the appropriate Government to establish adequate number of Courts to ensure that trial of offences under this Act are completed within a period of sixty days.

Speedy trial.

(2) The appropriate Government shall ensure that every appeal under this Act is disposed of within a period of ninety days from the date of the filing of the appeal.

21. (1) The appropriate Government shall appoint a Special Public Prosecutor in all Courts for trial of cases under this Act.

Special Public Prosecutor.

(2) A Special Public Prosecutor shall be an advocate, who has been in practice as an advocate for not less than seven years and preferably known for human rights work.

CHAPTER V

MEASURES FOR PREVENTION AND PROTECTION OF PERSON FROM WITCH-BRANDING AND WITCH-HUNTING

Duties of the police to rescue and protect persons.

22. (1) When a police officer receives information or a report that witch-branding or witch-hunting is likely to be committed or there are reasonable grounds to suspect that witch-branding and witch-hunting is being committed against a person, the officer shall immediately proceed to the place and shall take all suitable and adequate measures to prevent the witch-branding or witch-hunting and rescue the victim.

(2) It shall be duty of the police authority, as may be specified, to provide protection to a victim or a likely victim of an offence under this Act, including getting such person admitted in a recognized protective or shelter home either run by the Government or by a recognized voluntary organisation, in case the person has no place for shelter or fears attack by any person and to ensure security measures including providing police protection.

(3) The police officer shall immediately remove or cause to remove the person and the objects suspected or likely to harm a victim or likely victim and shall verbally or in writing warn the person or persons accused of having intention or attempting to commit witch-branding and witch-hunting to leave the place immediately and abstain from inflicting any harm upon the victim or likely victim and in case, the situation warrants, the police officer may cause arrest of the person(s), who may be identified as an abettor.

(4) Whenever an offence under the Act is reported to a police officer, in whose jurisdiction the offence is committed, the officer concerned shall record the same and shall take action in accordance with the provisions contained in the Criminal Code and shall take necessary steps to collect forensic and other evidence as per the Indian Evidence Act 1872.

1 of 1872.

(5) A police officer having the area of jurisdiction shall take necessary steps to protect the persons, associated with social works or voluntary organisation, who organize awareness programmes against witch-branding and witch-hunting.

Duties of the Central Government.

23. The Central Government, shall—

(a) direct the National Commission for Women to prepare a strategy document to ensure awareness building through digital campaigns and mass drives and for ensuring the elimination of the practice of witch-branding and witch-hunting; and

(b) set up a National Monitoring Committee for the monitoring and reviewing of the implementation of the Act with such composition as may be prescribed:

Provided that the National Monitoring Committee shall include members of civil society and representatives of Non-Government Organisations working on issues of witch-branding and witch-hunting.

Central Government to provide funds.

24. The Central Government shall provide adequate funds after due appropriation made by Parliament by law, for carrying out the purposes of the Act.

Duties of the State Government.

25. The State Government shall,—

(a) designate adequate personnel in the State Commission for Women to monitor the implementation of the Act;

(b) provide resources to districts where incidents of witch-branding and witch-hunting are prevalent for carrying out the purposes of this Act;

(c) direct the State Commission for Women to take measures for sensitization and training of all stakeholders including officials and public regarding the issue of witch-branding and witch-hunting;

(d) ensure confidentiality during testimony of victims as well as witnesses;

- (e) grant relief and compensation for victims of witch-branding and witch-hunting in such manner as may be prescribed;
- (f) provide rehabilitation mechanisms and schemes for victims of witch-branding and witch-hunting in such manner as may be prescribed;
- (g) provide medical and counselling services for victims of witch-hunting;
- (h) increase public awareness through various mechanisms to inform communities about the Act, including engagement with tribal leaders, faith leaders, caste leaders, community leaders;
- (i) take steps for launching of campaigns against witch-branding and witch-hunting through combined efforts of, administration, voluntary organisations, non-Governmental organisations, women's organisations, concerned individuals and academics, educational institutions etc. especially in regions where the menace of witch-branding and witch-hunting is most rampant;
- (j) take steps for organizing women's groups at village level and drawing up creative plans in consultation with such groups to enhance the self-confidence and economic independence of vulnerable women in such areas; and
- (k) take appropriate measures to improve education and health in such affected areas.

26. (1) The District Magistrate shall, in consultation with the field level voluntary organizations, identify areas in the district which are prone to incidents of witch-branding and witch-haunting and designate person(s) to ensure awareness on the practices of witch-branding and witch-hunting, ensure prevention and prohibition of such practices.

Steps to be taken at the district level.

(2) The appropriate Government shall set up a district level task force consisting of representatives from concerned non-Governmental organisations, women's organisations and individuals to address the issue of witch-hunting and witch-branding, in all areas where there has been recurring incidents of witch-branding and witch-hunting and with such functions, as may be specified.

(3) Every district level task force shall prepare an annual district level action plan along with budget requirements to address cases of witch-branding and witch-hunting in such manner as may be prescribed.

(4) The district level task force shall submit periodic reports to the State Government on the field situation, including number of cases handled, compensation and rehabilitation provided in such manner as may be prescribed.

(5) The State Government shall submit periodic reports to the National Monitoring Committee at least once annually in such manner as may be prescribed.

(6) All Government functionaries and local bodies including Panchayats as may be specified by the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that witch-branding and witch-hunting is about to be, or has been, committed in the area, shall forthwith report such fact to the nearest police station and assist the police in the execution of the provisions of this Act or any rule or order made there under.

CHAPTER VI

SPECIAL PROVISIONS

27. (1) The appropriate Government shall provide for rehabilitation grant to be paid to the victim or next of kin in such manner as may be prescribed for the offences committed against such person under this Act and, for any other offence or offences which have not been defined in the Act but have been defined in other criminal laws, for the time being in force.

Rehabilitation of affected persons.

(2) It shall be the responsibility of the District Magistrate to draw a long-term community-based rehabilitation plan in consultation with the Gram Panchayat functionaries, in order to ensure that the victim of witch-branding and witch-hunting or next of kin is settled in the community itself with the resources including movable and immovable assets of such person restored, or if these have been destroyed, then adequately compensated as per status before the crime and in case, the victim or next of kin cannot be restored within the community, they shall be provided with adequate support and resources including homestead land or housing in a nearby village or urban area.

(3) The appropriate Government shall establish One Stop Crisis Centres at the Block Level with such functions, as may be specified.

Right to free legal aid to victims.

28. A victim of witch-branding and witch-hunting or their next of kin shall have right to free legal services under the Legal Services Authorities Act, 1987.

39 of 1987.

Non-application of section 360 of the Criminal Code or the Probation of Offenders Act, 1958 to persons guilty of an offence.

29. Section 360 of the Criminal Code and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person of the age of twenty-one years and above, who is found guilty of having committed an offence under this Act.

20 of 1958.

Non-application of section 438 of the Criminal Code to persons committing an offence.

30. Nothing in section 438 of the Criminal Code shall apply in relation to any case involving the arrest of any person on accusation having committed an offence under this Act.

Application of certain provisions of the Indian Penal Code.

31. Subject to other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter V-A, section 149 and Chapter XXIII of the Indian Penal Code shall, so far as may be, apply for the purposes of this Act as they apply for the purpose of the Indian Penal Code, 1860.

45 of 1860.

Act to override other laws.

32. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time custom or usage or any instrument having effect.

Protection of action taken in good faith.

33. No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority of the Government or any other person for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

34. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Witch-branding is the stigmatisation of specific groups of individuals, including for the most part, widowed women, childless women, old couples and lower caste women. Many women and children, and some men continue to be branded, castigated, extermened to a life of isolation, or even killed, without adequate protection from the State and society. There is a strong gender dimension to witch hunts tilted towards women, given that a large majority of those killed in this patriarchal assertion are women, and amongst them widows, unmarried, and divorced or separated women and those who dare to assert themselves. It is not only a question of death for those condemned; those who escape death face a condemnation of their futures. Once suspected and accused of witchcraft, the affected person lives in perpetual fear and lifelong anxiety. They and their families are often subject to several human rights violations.

The practice of witch-hunting is most common across these twelve States of India – Jharkhand, Bihar, Haryana, West Bengal, Madhya Pradesh, Maharashtra, Gujarat, Odisha, Chhattisgarh, Assam, Rajasthan and Uttar Pradesh.

India currently lacks clear national laws to prevent witch-hunting. Punishment is usually awarded based on the Indian Penal Code, 1860. There is a failure to create a formal law on witch-hunting that violates a range of core rights laid down in numerous international treaties and conventions. It includes the right to non-discrimination, right to safety, right to life, right to access to national Courts, and the most significant, right to live a decent life, free from cruel and inhumane treatment.

Presently, section 323 of the Indian Penal Code, 1860 is used to deal with most cases of witch-hunting. The effect of this is that the persistent harassment of a woman, violence, social ostracization and deprivation of rights are prosecuted in the same way as a common assault. In addition, certain provisions of the Indian Penal Code, 1860 have been typically used to book offenders in cases relating to witch-hunting such as section 382 ‘theft after preparation made for causing death, hurt or restraint in order to commit theft, sections 339—48 ‘wrongful restraint and confinement’, sections 320—22, ‘Causing grievous hurt’, sections 359—69, ‘Kidnapping and abduction’, sections 375—376, ‘Rape’, sections 499—501, ‘Defamation’ and section 302, ‘Murder’. The loopholes in the law and order are evident from the fact that, in most of the witch-hunting cases, the witch hunting laws of the respective States are not invoked, rather only the relevant clauses of Indian Penal Code, 1860 are cited.

The use of the aforesaid sections in the absence of a stringent law to deal with the problem of witch-hunting has resulted in an *ad hoc*, un-coordinated and often insensitive approach to tackle the social evil of witch-hunting. A national law on the other hand would acknowledge, understand and address the specific harms and specific wrong done to women who are labelled as witches and subjected to oppression. There is a need to prevent, prohibit and prosecute witch-hunting as a specific manifestation of ongoing discrimination and violence against women across India.

In summation, there is a clear need for building up a National Law for criminalizing witch-hunting practitioners and mob-violence against targeted families. Criminalisation and punishing those involved in witch-hunting is the most appropriate way to end superstition, harmful practices and provide redress to victims.

The proposed Bill, therefore, seeks to provide for more effective measures to protect people from ‘witch-branding and witch-hunting’ and prevent the act of torture, oppression, humiliation and killing by providing punishment for such offences, relief and rehabilitation of victims of such offences.

Hence, this Bill.

SUJEET KUMAR.

FINANCIAL MEMORANDUM

Clause 20 of the Bill provides for establishment of adequate number of Courts for trial of offences under this Act. Clause 21 provides for appointment of special public prosecutor in all Courts. Clause 23 provides for setting up of a National Monitoring Committee for implementation of this Act. Clauses 24 provides that the Central Government shall provide funds for carrying out the purposes of the Act. Clause 27 provides for rehabilitation grant to the victim or next of kin and clause 28 provides for free legal aid to the victims.

The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about seventy crore rupees would be incurred per annum from the Consolidated Fund of India.

A non-recurring expenditure of about twenty crore rupees is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XXV

BILL No. LXXXIV OF 2022

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Code of Criminal Procedure, 1973 (hereinafter referred as Code), sub-section (a) shall be renumbered as (aaa) and before sub-section (aaa), so renumbered, the following shall be inserted, namely:—

"(a) 'anticipatory bail' means a bail that a person seeks in anticipation of an arrest for an accusation under an offence that is non-bailable.

(aa) 'bail' means a surety bond that includes a personal bond from the accused for his release by the Court, the police or the Investigating Agency which is a conditional release based on the suspect's solemn undertaking to co-operate with both the investigation and the trial."

(2) sub-section (a) shall be renumbered as (aaa).

3. For section 265H of the Code, the following shall be substituted, namely:—

Amendment
of Section
265H.

"(1) A Court shall have, for the purposes of discharging its functions under this chapter,—

Power of the
Court in plea
bargaining.

(a) all the powers vested in respect of bail, trial of offences and other matters relating to the disposal of a case in such Court under this Code; and

(b) the power to *suo moto* review cases under trial and make decision as to their eligibility for plea bargaining".

4. In section 309 of the Code,—

Amendment
of section
309.

(i) after proviso to sub-section (1), the following proviso shall be inserted, namely:—

"Provided further that such adjournment or postponement of the proceedings shall not affect the conclusion of the trial within a period of two months from the date of filing the charge sheet, except in cases where the delay is reasonable for the reasons recorded thereof."

(ii) in sub-section (2), after the words "and may by a warrant remand the accused if in custody.", the words "and may release the accused on bail if the trial does not relate to an offence under the Indian Penal Code, 1860 where the punishment for such offence is life imprisonment or death or imprisonment exceeds seven years, or remand the accused to further custody, for the reasons to be recorded in writing." shall be inserted.

(iii) in sub-section (2), for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that, the Court if deems it necessary in the interests of justice, may adjourn the proceedings for the purpose of enabling the accused person to show cause against the sentence proposed to be imposed on him, for such time as it considers reasonable and for the reasons to be recorded in writing".

5. In section 358 of the Code,—

Amendment
of section
358.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, and the damages incurred, including but not limited to financial losses as the Magistrate thinks fit".

(ii) in sub-section (2), the words, "not exceeding one thousand rupees", shall be omitted.

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable

shall be sentenced to simple imprisonment for such term as the Magistrate directs, unless such sum is sooner paid after taking into consideration the factors, including but not limited to, the gravity of the offence the person so arrested is charged with, and the extent of the damages incurred in the matter, including but not limited to financial losses".

Insertion of
new section
358A.

6. After section 358 of the Code, the following new section shall be inserted, namely:—

"358A. In section 436A of this Code, where the undertrial prisoner is detained beyond the maximum period prescribed, the Magistrate may award such compensation, as the Magistrate thinks fit in the interests of justice, after taking into consideration the factors including but not limited to, the cause for delay, extent of the delay, and the damages incurred by the reason of such delay including but not limited to financial losses".

Compensation
to undertrial
prisoners
detained
beyond the
maximum
prescribed
period.

Amendment
of section
436.

7. In section 436 of the Code, after sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the officer-in-charge or the Court, shall decide the bail application within fourteen days from the first day of receiving such application."

Insertion of
section 436B.

8. After section 436A of the Code, the following new section shall be inserted, namely:—

"436B. A Court shall have, for the purposes of discharging its functions under this chapter, the power to *suo moto* review cases undertrial and make decision as to their eligibility for bail".

Power to take
suo moto
cognizance of
undertrial
prisoners.

Amendment
of section
437.

9. In section 437 of the Code,—

(i) in sub-section (1), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(iii) such person shall not be so released if on such release he may directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence, or there appear reasonable grounds to believe that the presence of such person required for producing before the Court cannot be assured",

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) An officer or a Court not releasing any person on bail under sub-section (1) or sub-section (2), shall record in writing his or its reasons for not doing so."

(iii) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody for the reasons to be recorded in writing."

Amendment
of section
438.

10. In section 438 of the Code, in sub-section (2), for clause (ii), the following clause shall be substituted, namely:—

"(ii) the existence of reasonable grounds to believe that the applicant may directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence".

STATEMENT OF OBJECTS AND REASONS

The Code of Criminal Procedure does not define the words 'Bail' and 'Anticipatory Bail', and only categorizes the offence into bailable or non-bailable. While Code of Criminal Procedure provides for the grant of bail as a right in bailable offences after furnishing of bond with surety; in case of indigence, the officer in-charge or the Magistrate may, if deems fit, provide bail without surety; and in case of cognizable offences the grant of bail is subject to Magistrate's discretion.

2. There are reports of overcrowding in jails, in which two thirds of the prisoners are undertrials and of these undertrials, the substantial number is of those who are arrested in non-cognizable offence. The practice of indiscriminate arrests defeats the purpose of 'bail, not jail', wherein bail is a rule and jail is an exception, as also reiterated in several judgments of the Supreme Court, the latest being Satender Kumar Antil v/s CBI (CRL. No. 5191 of 2021). The arrests shall be necessitated instead of being mandatory, and only where there is a reasonable ground to believe that the accused will not appear before the Court at the stipulated time and place, or there is a reasonable ground to believe that the accused may if not arrested can tamper with the potential witnesses or evidence, then the accused may be so detained. The condition of jails with majority of undertrials in non-cognizable offences frustrates the spirit of liberty as a fundamental right enshrined in the constitution.

3. It is with this objective that the proposed Bill is presented to redefine a procedural framework with regard to the bail provisions. The aim is to reduce the population of undertrials in the jails whose arrests are not necessitated, the speedy disposal of bail applications so as to bring in certainty, and narrow down the scope of discretionary power that exists with the judiciary in deciding on bail applications.

Hence, this Bill.

SUJEET KUMAR.

XXVI

BILL NO. LXXXIII OF 2022

A Bill to provide a framework for achieving net zero emissions by the year 2070 as per India's nationally determined contributions under the United Nations Framework Convention on Climate Change and to provide relief for vulnerable persons and communities from drastic climate events in the form of maintaining a vulnerable population registry at the State and the district levels and for matters connected therewith or incidental thereto.

WHEREAS India is a signatory to the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement;

AND WHEREAS it is necessary to implement international obligations in connection with minimizing and combating the adverse effects of climate change.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Net Zero Emissions Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires:—

Definitions.

(a) "adaptation" means and includes the process of adjustment to actual or expected climate and its effects in human systems;

(b) "carbon capture and storage" means the process of capturing and storing carbon dioxide (CO_2) before it is released into the atmosphere;

(c) "climate change" means a change in the state of the climate that can be identified by changes in either the mean or the variability in temperature, precipitation, wind patterns and other measures, or all of the aforementioned measures, of climate that persists for an extended period, typically decades or longer;

(d) "climate risk" means adverse consequences for human or ecological systems arising out of drastic climate events;

(e) "climate vulnerable communities" includes but is not limited to indigenous communities who experience heightened risk and increased sensitivity to climate change and have less capacity and fewer resources to cope with, adept to or recover from climate change.

(f) "Commission" means the Net Zero Emission Commission of India as established under section 3 of this Act;

(g) "Community-Ecosystem-Based-Adaptation approach" means the efforts made to achieve ecosystem restoration by encouraging reforestation or afforestation at community level through treepreneurs, aiming at community engagement, synergy between adaptation and mitigation, and behavioral modelling towards sustainable livelihood;

(h) "Deviation Settlement Mechanism penalty" means a regulatory mechanism set up by the State Electricity Regulatory Commissions to achieve stability in the electricity grid by penalizing or rewarding for overdrawl or injection or underdrawal or injection of electricity from the schedule as the case may be;

(i) "District Council" means the District Net Zero Emission Council established under section 12 of this Act;

(j) "drastic climate event" means and includes a catastrophe, mishap, calamity or grave occurrence of a sudden unprecedented nature in any area, arising out of climate change related impacts which results in substantial loss of life, way of life or human suffering or damage to, and destruction of property, or damage to the ecosystem or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the vulnerable persons of the vulnerable areas in the form of, but not limited to natural disasters;

(k) "Emission Reduction Plan" means a plan established under section 18;

(l) "Interim Emissions Target" means the target as set under section 15 of this Act;

(m) "milestone years" means any of the years 2030 or 2070, as the case may be;

(n) "mitigation measures" means the efforts that seek to prevent or slow down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

(o) "National Net Zero Emissions Target" means the target for achieving Net Zero Emissions, as set under section 14 of this Act;

(p) "Net Zero Emissions" means cutting greenhouse gas emissions to as close to zero as possible, with any remaining emissions re-absorbed from the atmosphere, by oceans and forests;

(q) "person" means an individual and does not include any company or limited liability partnership or firm or association or body of individuals, whether incorporated or not;

(r) "physical risk" means physical damage to social and economic infrastructure as a result of climate change.

(s) "Renewable Energy Forecasting" means information on the predicted alterations in the renewable energy that is to be produced in the coming years;

(t) "Renewable Purchase Obligation" means a mandate to purchase a minimum specified quantity of renewable energy by the obligated entities;

(u) "State Council" means the State Net Zero Emission Councils established under section 10 of this Act;

(v) "systems thinking" means a way of thinking in a critical manner whereby the connections between the system's components are examined to comprehend a problem and make better decisions;

(w) "transition risks" means financial risks resulting from societal and economic changes towards a low-carbon and more environmentally sound future;

(x) "treepreneurs" means a community volunteer group, made responsible for the reforestation or afforestation drive, as the case may be, wherein indigenous seed varieties are planted to replace the invasive varieties.

CHAPTER II

NET ZERO EMISSION COMMISSION OF INDIA

Constitution
of the Net
Zero
Emission
Commission
of India.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted, for the purposes of this Act, a Commission to be called as the Net Zero Emission Commission of India to perform the functions assigned to the Commission under this Act.

(2) The head office of the Commission shall be at Delhi and the Commission may, with previous approval of the Central Government, establish offices at other places in India.

(3) The Commission shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

Composition
of the
Commission.

4. (1) The Commission shall consist of the following members:—

(i) a full-time Chairperson, being a person having specialized knowledge and scientific understanding of climate change and environment related impacts, to be appointed by the Central Government and shall exercise such powers and perform such duties, as may be prescribed.

(ii) not exceeding three expert members, having specialized knowledge and practical experience in the field of climate change and the environment including pollution and emission control, disaster and energy resource management, to be appointed by the Central Government.

(iii) eight *ex-officio* members to be nominated by the Central Government one each from the following:

(a) Ministry of Home Affairs;

(b) Ministry of Environment, Forest and Climate Change;

(c) Ministry of Women and Child Development;

- (d) Ministry of Agriculture and Farmers Welfare;
- (e) Ministry of New and Renewable Energy;
- (f) Ministry of Corporate Affairs;
- (g) Ministry of Tribal Affairs; and
- (h) Ministry of Jal Shakti.

(iv) five non-official members to be appointed from amongst specialists, scientists and non-governmental organizations having special knowledge of, or experience in, matters relating to climate change and related impacts, emission control and climate sciences forming a Scientific Advisory Committee.

(2) The Central Government shall ensure equal representation of men and women while appointing members to the Commission in the form of expert; *ex-officio* and non-official members.

(3) The Central Government may appoint such number of officers and staff to the Commission as may be required for its efficient functioning.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson and the other members, other than *ex-officio* members, officers and staff of the Commission shall be such as may be prescribed by the Central Government.

5. (1) The Chairperson and other members of the Commission may at any time resign from their office by writing under their hand addressed,—

- (a) in the case of the Chairman, to the Central Government; and
- (b) in any other case, to the Chairperson of the Commission.

Removal of
Chairperson
and members
of the
Commission.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may remove from the Commission any member who, in its opinion, has—

- (a) been adjudged as an insolvent; or
- (b) been convicted of an offence which involves moral turpitude; or
- (c) become physically or mentally incapable of acting as a member; or
- (d) so abused his position as to render his continuance in office detrimental to the public interest; or
- (e) acquired such financial or other interest as is likely to prejudicially affect his functions as a member.

Meetings of
the
Commission.

6. (1) The Commission shall meet at least once in every six months at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum at its meetings, as may be prescribed:

Provided if, in the opinion of the Central Government or the Chairperson, any business of an urgent nature is to be transacted, a meeting of the Commission at such time as deemed fit for the aforesaid purpose, may be convened:

(2) The Chairperson shall preside at the meetings of the Commission.

(3) If for any reason the Chairperson is unable to attend any meeting of the Commission, any senior member of the Commission chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the Commission shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(6) No act or proceeding of the Commission shall be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Commission; or
- (b) any defect in the appointment of a person acting as a member; or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Punishment
for default in
holding
meetings.

7. If any default is made in holding a meeting of the Commission in accordance with sub-section (1) of section 6, every officer of the Commission who is in default shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues.

Committees
of the
Commission.

8. (1) The Commission shall constitute a committee to be known as the Scientific Advisory Committee in such manner as may be prescribed to inform and advise the Central Government and the Commission on the emission trends and on any other matter as deemed fit by the Central Government and the Commission in the form of a report every three months.

(2) The Commission shall constitute a committee to be known as the Net Zero Emission Advisory Committee in such manner as may be prescribed to inform and advise the Central Government and the Commission on the net-zero emission trajectory planning in achieving net zero emissions by the year 2070 or any other matter referred to it by the Central Government and the Commission.

(3) Without prejudice to the provisions of sub-section (1) and (2) the Commission may constitute such a number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act, in such manner as may be prescribed.

(4) A committee constituted under this section shall co-opt such number of persons, who are not the members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the Committee and take part in its proceedings but shall not have the right to vote.

(5) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the Committee as may be fixed by the Central Government.

Functions of
the
Commission.

9. (1) The Commission shall—

(a) advise the Central Government upon review of the National Net Zero Emissions Target and, if necessary, recommend changes to the target;

(b) advise the Central Government on matters relating to countering the adverse impacts of climate change on vulnerable communities and eco-sensitive zones;

(c) conduct periodic reviews of Emission Reduction Plan to meet carbon reduction targets at the national and international level;

(d) prepare annual national climate change risk assessments as specified in section 23 of this Act;

(e) ensure coordination with other ministries of the Central Government and for purposes connected therewith, to appoint nodal officers in other ministries for ensuring proper coordination between the Commission and the Central Government with the aim of implementation of this Act.

- (f) conduct awareness and training programmes for officers and personnel; and
- (g) perform such other functions as may be prescribed, by the Central Government, for carrying out of the objectives of this Act.

CHAPTER III

STATE NET ZERO EMISSION COUNCILS AND DISTRICT NET ZERO EMISSION COUNCILS

10. (1) Every State Government shall, by notification in the Official Gazette, establish with effect from such date as it may specify in such notification, a State Net Zero Emission Council for the State.

State Net
Zero
Emission
Council.

(2) The State Council shall be an advisory body and consist of the following members, namely:—

(a) the Minister-in-charge of Ministry of the Environment, Forest and Climate Change in the State Government who shall be the Chairperson;

(b) such number of other official or non-official members to be nominated by the State Government representing such interests as may be prescribed;

(c) such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in climate sciences or legal environmental policy, environmental non-governmental organizations, including climate activists, tribal welfare activists or social workers.

(3) Equal representation of men and women shall be ensured by the Central and State Governments while appointing members to the State Council in the form of other official or non-official members.

(4) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.

(5) The State Council shall meet at such time and place as the Chairperson may think fit and shall observe such procedure in regard to the transaction of its business, as may be prescribed.

11. (1) Every State Council shall render advice to the State Government concerned on setting specific emission targets in line with the National Net Zero Emission Target and on countering the adverse localized impacts of climate change on vulnerable communities and areas within the State.

Functions of
State Council.

(2) Without prejudice to sub-section (1), the State Council shall—

(a) prepare an Annual State Emission Reduction Plan on the lines of the National Emission Reduction Plan, as may be prescribed;

(b) deliberate and discuss on important interventions and measures undertaken to counteract the adverse impacts of climate change;

(c) conduct annual state climate risk assessments;

(d) conduct emission trend analysis at the State level to inform and advise the State Government on emission control measures.

12. (1) Every State Government shall, by notification in the Official Gazette, establish for every District with effect from such date as it may specify in such notification, a District Net Zero Emission Council for such district.

District Net
Zero
Emission
Council.

(2) The District Council shall be an advisory body and consist of the following members, namely:—

(a) the District Magistrate of the district, by whatever name called, who shall be the Chairperson; and

(b) such number of other official and non-official members, to be nominated by State Government, representing climate scientists, non-governmental organizations working for the welfare of women and children, tribal groups and the environment, as may be prescribed.

(3) The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The District Council shall meet at such time and place within the district as the Chairperson may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

Functions of
the District
Council.

13. (1) Every District Council shall render advice for setting district specific emission targets in line with the National Net Zero Emission Target and on countering the adverse localized impacts of climate change on vulnerable communities and areas within the district.

(2) Without prejudice to sub-section (1), the District Council shall—

(a) prepare an Annual district emission reduction plan on the lines of the National Emission Reduction Plan, as may be prescribed;

(b) deliberate and discuss on important interventions and measures undertaken to counteract the adverse impacts of climate change within the district;

(c) conduct annual district climate risk assessments;

(d) conduct emission trend analysis at the district level to inform and advise the State Government on emission control measures.

CHAPTER IV

EMISSION REDUCTION

National Net
Zero
Emissions
Target.

14. (1) The National Net Zero Emission Target shall be fixed by the Central Government, in such manner that the net accounting emissions of greenhouse gases in a calendar year, other than biogenic methane, are zero by the calendar year beginning on first day of January in 2070 and for each subsequent calendar year; and

(2) The National Net Zero Emission Target shall be considered to have been achieved if emission reductions meet or exceed those required thereunder.

Interim
Emissions
Target.

15. (1) The Central Government shall fix the target for emissions reduction for the year 2030 to be known as the Interim Emission Target, requiring to—

(a) reduce by the year 2030 emissions intensity by forty-five per cent. from 2005 levels;

(b) achieve about fifty per cent. cumulative electric power installed capacity from non-fossil fuel-based energy resources by the year 2030, with the help of transfer of technology and low-cost international finance including from Green Climate Fund;

(c) create an additional carbon sink of two and a half to three billion tonnes of carbon dioxide equivalent through additional forest and tree cover by the year 2030.

(2) The Interim Emission Target shall be considered to have been achieved if emissions reductions meet or exceed those required by the target as per the 2005 levels.

Review of
targets.

16. (1) Notwithstanding the provisions of section 9, the Central Government may direct the Commission to conduct a review of the National Net Zero Emissions Target and the Interim Emission Target and report thereon and the Commission shall submit its report within six months of receipt of such direction.

17. (1) The Commission shall on the basis of the review under section 16, or otherwise, recommend changes in,—

Revision of targets.

(a) the time frame for achievement of the National Net Zero Emissions Target or the Interim Emission Target or parts thereof;

(b) the levels of emission reductions required by the National Net Zero Emissions Target or the Interim Emission Target or parts thereof;

(c) levels of the greenhouse gas emissions, and removals to which the National Net Zero Emissions Target or the Interim Emission Target or parts thereof applies or both.

(2) The Commission may recommend a change in the Net Zero Emission Target only if—

(a) significant change has occurred, or is likely to occur, since the submission of the report to one or more of the following,—

(i) India's obligations under relevant international agreements;

(ii) scientific understanding of climate change;

(iii) India's economic or fiscal circumstances;

(iv) technological developments;

(vii) equity implications, including generational equity;

(viii) the principal risks and uncertainties associated with emissions reductions and removals; and

(ix) social, cultural, environmental, and ecological circumstances.

(b) the Commission is satisfied that the significant change justifies the change to the target.

18. (1) The Central Government shall prepare a draft Emission Reduction Plan within six months of coming into force of this Act.

Emission Reduction Plan.

(2) The draft Emission Reduction Plan shall include, but not be limited to, the following—

(a) a detailed plan to phase-out the greenhouse gas emissions in India as per the targets set by the milestone years;

(b) measures to address off-shore emissions from international shipping and airplane emissions;

(c) sector-specific policies and measures to reduce greenhouse gas emissions;

(d) a multi-sector strategy to meet emissions budgets and improve the ability of those sectors to adapt to the effects of climate change;

(e) provision of utility infrastructure for green energy distribution, in the form of a stringent Renewable Purchase Obligation framework, establishment of a specialized agency for advanced Renewable Energy Forecasting that aims at reduced power procurement cost, abolition of Deviation Settlement Mechanism penalty, and reduced grid disturbances and outages;

(f) integration of Community-Ecosystem-Based Adaptation Approach in India's Climate adaptation and mitigation measures;

(g) integration of climate change risks into financial stability framework, so as to cover both physical risks and transition risks, formulate strategy to address climate change risks and the constitution of appropriate governance structure to that effect,

adoption of climate risk related financial disclosures and reporting mechanism, and capacity building of relevant stakeholders;

(h) provision for early-warning systems using sensors across water bodies and drains, and a network of communication for hotspots of emerging flood risk in the monsoon season;

(i) provision for early-warning systems to inform shift in wind patterns or other climatic variability that affects agriculture, and devise technical solutions for building in resilience and to suggest measures for diversifying crop varieties, support terrain specific crops, shifting crop patterns, and any other measures as required on case-to-case basis;

(j) provision for climate change resilient infrastructure that responds to and is aligned with the needs of vulnerable communities, the prevailing climatic conditions and topography;

(k) provisions for essential training resources and capacity building in climate risk management, disaster management, local area development, green entrepreneur drives, preparation of a team of dedicated professionals at national, state and district level to oversee the implementation of climate adaptation and mitigation measures;

(l) incorporation, wherever deemed necessary, of the climate smart public-private-partnerships for leveraging the low carbon pathways in infrastructure development, technical expertise, and financial resources;

(m) provision for developing climate change education curriculum involving 'systems thinking' to be adopted across the country; and

(n) any other policies or strategies that the Ministry considers necessary.

(3) The Commission may advise the Central Government on the direction of implementation of the policy required in the draft Emissions Reduction Plan within three months or release of the plan.

19. (1) The Central Government shall make the draft Emission Reduction Plan publicly available and conduct a public consultation, in cooperation with the Commission, in such manner as may be prescribed.

(2) The public consultation shall include—

(a) inviting responses from the general public on the draft Emission Reduction Plan from and not limited to civil society organizations and relevant stakeholders; and

(b) any other appropriate mode as may be recommended by the Central Government in consultation with the Commission.

20. The National Green Tribunal shall have power to fix responsibility and make a declaration to that effect, together with award of cost in case of failure to meet the targets specified under section 14 and section 15 of this Act.

CHAPTER V

PROTECTION OF VULNERABLE COMMUNITIES

21. (1) The State Councils and District Councils shall respectively maintain a localized climate vulnerable community population registry.

(2) The registry shall be maintained in such manner as may be prescribed by the State Government from time to time.

(3) The State Government may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, grant a certificate of registration or

Public
consultation
for the
Emission
Reduction
Plan.

Effect of
failure to
meet the
targets.

Climate
vulnerable
communities
population
registry.

certificate of climate vulnerability to communities or persons who may apply to be enrolled in the registry.

(4) The State Government while determining the vulnerability of a person or a community shall under this section have due regard to all or any of the following factors, namely:—

- (a) exposure to regional drastic climate variability;
- (b) historical susceptibility to drastic climatic events according to available sources of climate information;
- (c) frequency of economic and non-economic loss suffered due to drastic climate events;
- (d) access to technology and risk perceptions systems and their awareness;
- (e) loss of livelihood and customary and cultural practices of communities;
- (f) specialized impact of climate change unique to a person or community.

22. The Commission shall make recommendations to the Central Government to make available to such climate vulnerable communities or persons who are enrolled in the climate vulnerable community population registry, due to a drastic climate event, climate protection in the form of one or more reliefs in the form of specialized schemes to provide climate adaptation relief or climate rehabilitation relief or both.

Relief to
vulnerable
persons and
communities.

CHAPTER VI

ADAPTATION AND MITIGATION

23. (1) The Scientific Advisory Committee established under the Commission shall no later than one year after the commencement of the Act prepare the annual National Climate Risk Assessment.

National
Climate Risk
Assessment.

(2) The National Climate Risk Assessment shall,—

- (a) assess the risks to India's economy, society, environment and ecology from the current and future effects of climate change; and
- (b) identify the most significant risks to India based on the nature of the risks, their severity and the need for coordinated steps to respond to those risks in the next six year period.

24. (1) The Commission shall prepare sectoral plans which shall be sector specific and aimed at emission reduction in the form of continuous assessment and monitoring that shall be undertaken by the Commission and the Committees, as may be prescribed.

Sectoral
Adaptation
and
Mitigation
plans.

(2) The sectoral plans at the State and District level shall be prepared by the State Councils and District Councils, respectively in consultation with the respective State Governments, District administration, and other relevant stakeholders, in such manner as may be prescribed.

(3) For the purpose of clause (1), the sectoral plans shall include but shall not be limited to the following sectors—

- (a) energy sector;
- (b) agricultural sector, livestock management;
- (c) transportation sector;
- (d) industrial sector; and
- (e) urban and infrastructural planning.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT OF THE NET ZERO EMISSION COMMISSION

National
Emission
Reduction
Fund.

25. (1) The Central Government may, by notification in the Official Gazette, constitute a fund to be called the National Emission Reduction Fund that shall be utilized for green house gas emission reduction activities as may be prescribed and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by Law in this behalf provide;

(b) any grants that may be made by a person or institution for the purpose of emission reduction activities;

(c) all sums received by the Commission from such other sources as may be decided upon by the Central Government.

(2) Notwithstanding anything contained in any other law in force, the National Emission Reduction Fund shall be exclusively utilized for—

(a) financing procurement of zero emission technology;

(b) financing emission reduction projects;

(c) financing carbon capture solutions and creation of natural and artificial carbon sinks; and

(d) greenhouse gas emission reduction activities as may be prescribed by the Central Government.

Annual
report of the
Commission.

26. The Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors report thereon.

Budget,
accounts and
audit.

27. (1) The Commission shall prepare a budget, maintain proper accounts and other relevant records, including the accounts and other relevant records of the National Emission Reduction Fund, and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

Annual
report of the
Commission
to be laid
before Houses
of
Parliament.

28. The Central Government shall cause the annual report of the Commission and audit report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII

FINANCE, ACCOUNT AND AUDIT OF STATE COUNCIL

29. The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Council by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

Grants of
money by
State
Government
to State
Council.

30. (1) There shall be constituted a fund to be called the State Emissions Reduction Fund and there shall be credited thereto—

State
Emissions
Reduction
Fund.

(a) any grants and loans made to the State Council;

(b) any grants or loans made by the Commission;

(c) all sums received by the State Council from such other sources as may be decided upon by the State Government.

(2) The State Emission Reduction Fund shall be utilized for—

(a) financing procurement of zero emission technology;

(b) financing emission reduction projects;

(c) financing carbon capture solutions and creation of natural and artificial carbon sinks;

(d) conducting training and awareness programmes on achieving net zero carbon emissions; and

(e) any other expenses incurred in activities related to greenhouse gas emission reduction.

31. Every State Council shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Annual report
of State
Council.

32. The accounts of the State Council shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the State Council shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with audit report thereon.

Audit of
accounts of
State Council.

33. The State Government shall cause the annual report and audit report of the State Council to be laid, as soon as may be after they are received, before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Annual report
and audit
report of
State Council
to be laid
before the
Houses of
State
Legislature.

CHAPTER IX

FINANCE, ACCOUNT AND AUDIT OF DISTRICT COUNCILS

34. The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the District Council by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

Grants of
money by
State
Government
to District
Council.

35. (1) There shall be constituted a fund to be called the District Emissions Reduction Fund and there shall be credited thereto—

District
Emissions
Reduction
Fund.

(a) any grants and loans made to the District Council;

- (b) any grants or loans made by the Commission or the State Council;
- (c) all sums received by the District Council from such other sources as may be decided upon by the State Government.
- (2) The District Emission Reduction Fund shall be utilized for—
- (a) financing procurement of zero emission technology;
- (b) financing emission reduction projects;
- (c) financing carbon capture solutions and creation of natural and artificial carbon sinks;
- (d) conducting training and awareness programmes on achieving net zero carbon emissions; and
- (e) any other expenses incurred in activities related to greenhouse gas emission reduction.

Annual report of the District Council.

36. Every District Council shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Audit of the accounts of District Council.

37. The accounts of the District Council shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the District Climate Council shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with audit report thereon.

Annual report of the District Council to be laid before the Houses of State Legislature.

38. The State Government shall cause the annual report and audit report of the each District Council to be laid, as soon as may be after they are received, before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to adjudicate disputes.

39. Any dispute arising from any order or decision made by the Central Government or the Commission under the provisions of the Act shall lie before the National Green Tribunal within six months from the date on which such a dispute arose.

Bar of Jurisdiction.

40. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the National Green Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Act not in derogation of any other law.

41. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power for removal of difficulties.

42. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty.

Power of Central Government to make rules.

43. (1) The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) The State Government may by notification in the State Gazette, consistent with this Act and the rules may be the Central Government, make rules for carrying out the purposes of this Act.

CHAPTER X

MISCELLANEOUS

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

India is amongst the top three polluting nations in the world and the ten of the fifteen most polluted cities in the world are in India. Air pollution is considered the world's biggest environmental threat today, with the deaths accounting for over seven million across the world. In India, the share of premature deaths due to air pollution is 17.8% of all deaths. According to a recent scientific study, all 1.3 billion people of India reside in places where the average annual particle pollution level surpasses limits prescribed by the World Health Organization, and at the given rate of pollution level, the life expectancy of roughly 40 per cent. of India's population would decrease by an average of 7.6 years particularly in the Indo-Gangetic plains (IGP) in Northern India.

As per the national report of the Ministry of Earth Sciences, the rising greenhouse gases emissions is the primary reason behind the rising average temperature levels. By the end of 21st century, the temperature in India is projected to increase by 2.7 degree Celsius if all mitigation measures are undertaken, and by 4.4 degree Celsius if no such measures are undertaken. The rising temperatures are the key contributor towards extreme climatic events characterized by extreme droughts, intense heat waves, severe cyclones, heavy floods, the shift in monsoon patterns, and rising sea levels.

It is pertinent for a country like India to take measures towards lowering the emissions so as to not expose its people to adverse consequences of climate change. The most impacted and vulnerable groups are to be especially identified, provided for, and protected. However, as is known from the Global Climate Index, 400 million poor people are directly impacted by loss of livelihood loss in India, since they depend on climate sensitive sectors. Further, as per 5th Assessment Report of Inter-Governmental Panel of Climate Change, the marginalized and poor sections are directly and more gravely affected by climate change impacts.

It is in this spirit, that the Bill proposes to address the rising emissions and the resultant climate change impacts, provide special consideration for vulnerable groups facing the socio-economic challenges exacerbated by climate change, design a three-tier comprehensive adaptation and mitigation plan for the country that aims at capacity building of all stakeholders involved, building resilient infrastructure, and consultative and deliberative decision making process enshrining inclusivity and participatory democracy in line with the Nationally Determined Contributions declared by India under the Paris Agreement.

Hence, this Bill.

SUJEET KUMAR.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of the Net Zero Emission Commission at the national level and Clause 9 Bill provides for constitution of various Committees by the Commissions. Clause 11 provides for constitution of the State Net Zero Emission Councils and clause 14 provides for constitution of the District Net Zero Emission Councils.

Further, clause 28 provides for constitution of the National Emission Reduction Fund, clause 33 provides for constitution of the State Emission Reduction Fund and, clause 38 provides for constitution of the District Emission Reduction Fund. Clauses 32 and 37 provide for grants of money by the State Government to the State Emission Reduction Fund and the District Emission Reduction Fund, respectively.

The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India and of the States. It is estimated that a recurring expenditure of about rupees 200 crore would be incurred per annum from Consolidated Fund of India.

A non-recurring expenditure of about rupees 100 crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 of the Bill empowers the Central Government and the State Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XXVII

BILL NO. LXXI OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 84 of the Constitution, for clause (b), the following clause shall be substituted, namely:—

"(b) is not less than twenty-one years of age;"

3. In article 173 of the Constitution, for clause (b), the following clause shall be substituted, namely:—

"(b) is not less than twenty-one years of age;"

Amendment of article 173.

STATEMENT OF OBJECTS AND REASONS

Article 84 and article 173 of the Constitution lay down the provisions of the Constitution relating to the qualification of membership of Parliament and State Legislatures, respectively. The articles stipulate the age for candidature for the representation of an individual in the House of the People, Council of States, Legislative Councils, and Legislative Assemblies of the States. The current qualification for membership of Parliament and State Legislature stipulates the age for candidates i.e. twenty-five years for the House of People and the Legislative Assemblies; and thirty years for the Council of States and the Legislative Council.

2. It is proposed in this Bill that the age for candidature shall be changed to twenty-one years for the House of People and Legislative Assemblies; and Council of States and Legislative Councils.

3. Youth of our country has been serving as public servants and contributing actively to the executive part of Indian Democracy. India has one of the youngest population in the world. More than fifty per cent of its population is estimated to be under twenty-five years. Young men and women actively engage in our electoral processes by exercising their franchise. A large number of youth from the age of twenty-one are also contributing to nation building and strengthening our democratic values at the grassroots through candidature at the Panchayat level. It is natural that those youth will lead our country by becoming public representatives at the Central and State level. This amendment to the Constitution of India will give an opportunity to the youth of this nation to contribute to legislation, by becoming a part of the Legislature of India.

This Bill seeks to achieve the above objectives.

JAYANT CHAUDHARY.

XXVIII

BILL No. LXXXVIII OF 2022

A Bill to provide for the erection and management of a temple of all religions under one roof to perpetuate the ideals of the Constitution of India which establishes India as a secular State and for the purpose of creating awareness, tolerance towards, and honour, respect, preservation, growth and spread of spiritual knowledge of all religions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Sarva Dharma Temple Act, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) “Temple” means the Sarva Dharma Temple established under section 3;

(b) “Trust” means the Sarva Dharma Temple Trust established under section 4; and

(c) “Trustees” means the Trustees of the Sarva Dharma Temple as specified in section 6.

Establishment
of the Sarva
Dharma
Temple.

3. (a) There shall be established a temple to be known as the Sarva Dharma Temple with such structure as specified in the Schedule.

(b) The location of the Temple shall be on the banks of the river Hooghly in the city of Kolkata, State of West Bengal.

Establishment
of Sarva
Dharma
Temple Trust.

4. There shall be a Trust, namely, the Sarva Dharma Temple Trust to be established under the Indian Trust Act, 1882 for the purpose of erection and management of the Temple.

2 of 1882.

Objects of the
Trust.

5. The objects of the Trust shall be:—

(a) to erect and maintain suitable buildings, structures and parks on the banks of the river Hooghly in the city of Kolkata, State of West Bengal;

(b) to acquire lands, buildings and other properties for the purposes of the Trust; and

(c) to raise and receive funds for the purposes of the temple.

Composition
of the
Trustees of
the Temple.

6. (1) The Trustees of the Temple shall be the following, namely:—

(a) the Prime Minister—Chairperson;

(b) the Union Minister in-charge of Culture;

(c) the Leader of Opposition recognized as such in the House of the People or where there is no such Leader of Opposition, the Leader of the single largest opposition party in that House;

(d) the Governor of the State of West Bengal;

(e) the Chief Minister of the State of West Bengal; and

(f) three eminent persons to be nominated by the Central Government.

(2) The trustees shall be a body corporate with perpetual succession by the name of the “Trustees of the Sarva Dharma Temple” and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts and to do all acts necessary for, and consistent with, the purposes of this Act.

Term of office
of nominated
Trustees.

7. The Trustees nominated under clause (f) of sub-section (1) of section 4 shall be Trustees for a period of five years, and shall be eligible for re-nomination.

Property
vested in
Trustees.

8. All the funds and property, whether movable or immovable, which may hereafter be given, bequeathed or otherwise transferred for the purposes of the Temple or acquired for the said purposes shall vest in the Trustees.

9. The Central Government may, after due appropriation made by Parliament by law in this behalf, provide grants to the Trust of such sums of money as the Central Government may think fit, for the purposes of this Act.

Power of
Trustees to
appoint
committee of
management.

10. (1) For the purposes of managing the affairs of the Trust, the Trustees may by passing a resolution at a meeting, appoint a committee of management, and entrust to it such powers, duties and functions, under such directions and limitations, as may be defined by such resolution.

(2) The Trustees may appoint any person as members of the committee of management, whether such person are Trustees or not, and may, from time to time, very or rescind any resolution passed by it under this section.

11. The Trust shall meet at least once in a year to approve the audited accounts of the Trust and shall transact such other business as may be considered necessary.

Power to
approve
audited
account.

12. No act of the Trustees shall be deemed to be invalid merely by reason any vacancy in, or any defect in the constitution of, the body of Trustees.

Validity of
acts of
Trustees not
to be
questioned by
reason of
vacancy, etc.

13. (1) The accounts of the Trust shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Trust to the Comptroller and Auditor-General.

Accounts and
audit.

(2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Trust under This Act, shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Trust.

(3) The account of the Trust as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Trust and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

14. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the objects of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for:—

(a) the manner in which funds belonging to the Temple shall be kept deposited or invested;

(b) the mode of authentication of orders for payment of money by the Trustees;

(c) the form in which accounts shall be kept by the Trustees and the audit and publication of such accounts;

(d) the laying out, erection, improvement, maintenance and management of the Temple and the care and custody of the properties thereof;

(e) the condition under which the public shall have access to the Temple or particular parts thereof and the regulation of the conduct of persons entering the precincts of the Temple; and

(f) the preservation of, and the prevention of injury to or interference with, any property vested in the Trustees and the prevention of persons from trespassing into any particular part of the Temple.

(3) A rule made under this section may provide that a breach of any rule made under clauses (e) and (f) of sub-section (2) shall be punishable with fine which may extend to one hundred rupees.

Power of
Trustees to
make
regulations.

15. The Trustees may make regulations consistent with this Act for all or any of the following purpose, namely:—

(a) the manner in which meetings of the Trustees shall be convened, the quorum for the transaction of any business and the procedure at such meetings;

(b) the manner in which a majority decision of the Trustees shall be obtained by circulation to the Trustees of the matter requiring decision;

(c) the term of office of members of the committee of management, their powers and duties, and the circumstances in which and the conditions subject to which such powers and duties may be exercised; and

(d) the appointment of such officers and servants as may be necessary for the purpose of the Trust, and their terms and conditions of service.

Rules and
regulations to
be laid before
Parliament.

16. Every rule or regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

THE SCHEDULE

[See section 3(a)]

Structure of the Sarva Dharma Temple

1. The Temple shall be octagon-shaped, each of the eight symmetrical lines will have an entry to each of the religions in the following manner:—

- i) Line one Hindu
- ii) Line two Christian
- iii) Line three Islam
- iv) Line four Sikhism
- v) Line five Buddhism
- vi) Line six Judaism
- vii) Line seven Zoroastrian
- viii) Line eight Other Spiritual Philosophy.

2. The center of the octagon shaped temple building shall be an octagon shaped room depicting pure awareness, a space within space which is free from all beliefs which is just "is".

3. The Temple shall provide equal space to all religious beliefs, which shall house the spiritual aspects of that religion.

4. The Temple complex shall have a Library consisting of books of all religions.

5. The temple complex also shall have an auditorium to screen religious texts of all religions, in their specified allotted time.

6. Space shall be allotted to each religion to conduct short term courses in spiritual training.

7. The Temple shall hold annual religious functions among all religions to bring communal harmony and spread religious and spiritual awareness and respect towards all religion.

STATEMENT OF OBJECTS AND REASONS

The noble object and reason for the need of the Sarva Dharma Temple is enshrined in the Preamble of our great Constitution.

2. In the spirit of India being a secular State, it is proposed that there shall be the Sarva Dharma Temple or Temple of all Religions which shall house all religions under one roof.

3. By the erection of this unique Temple, the nation shall bring people from all religions under one platform which will help prevent misinformation about each other's religion and increase mutual respect.

4. The Temple to be erected on the banks of the river Hooghly or the holy Ganges in the city of Kolkata will bring all the more meaning as Bengal has given birth to great spiritual thinkers such as Chaitanya Mahaprabhu, Swami Vivekananda, Paramahansa Yogananda, Swami Pranavanandaji Maharaj founder of Bharat Sevashram Sangha. It is also Mother Teresa's *Karma Bhumi*, not to mention many great Muslims saints lived in this great city.

5. The growing false perception and fake propaganda news being circulated around the world against India being intolerable towards other religions, needs to be defeated. This temple is the need of the hour to clean India's secular image. The need is, therefore, to recognize India's great spiritual culture and heritage and its age old tradition of acceptability of all religious beliefs.

6. The Temple will bring forth the fact that India upholds and cherishes its secular status dearly and will permanently stop false propaganda by foreign forces against India's great secular status which is our pride.

Hence, this Bill.

SHANTA CHHETRI.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the Sarva Dharma Temple Trust to erect and maintain suitable buildings, structures and parks on the banks of the river Hooghly in the city of Kolkata, State of West Bengal; to acquire lands, buildings and other properties for the purposes of the Trust; and to raise and receive funds for the purposes of the Temple. Clause 9 provides for making grants to the Trust by the Central Government after the appropriation by Parliament by law for the purpose of the Act.

2. The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, it is difficult to estimate the amount required for the purpose as it would depend upon the decisions of the Trust.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Clause 15 empowers the Trustee to make regulations to carry out defined objectives. The rules and regulations will relate to matters of details only, and as such, the delegation of legislative power is of a normal character.

XXIX

BILL No. LXXX OF 2022

A Bill to provide for social security to orphan children, to ensure proper upbringing of the orphan child, to ensure a bright future for the child and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Maa Mamata Act, 2022.

Short title and commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “prescribed” means prescribed by rules made under this Act;

(c) “orphan child” means any child below eighteen years of age, who has lost both of his biological parents and registered in Central Registry of orphans as created under section 9 of the Act;

(d) "Registry" means the Central Registry of Orphans established under section 9 of this Act;

(e) "Scheme" means the Maa Mamta Scheme as formulated under section 3 of the Act; and

(f) "social security" means provision of food, shelter, education, healthcare, job reservation quota, establishment of recreation centers and other amenities necessary for the welfare of orphan child.

Maa Mamta Scheme.

3. (1) The Central Government shall formulate a scheme to be known as "Maa Mamata Scheme" to provide social security to all orphan children and to ensure healthy upbringing at par with those children with biological parents and also ensure protection from exploitation and ill treatment so as to ensure peaceful life thereon.

(2) The appropriate Government shall provide every orphan child under the Scheme—

(i) a Bank account and deposit such monthly amount as may be prescribed, which shall be handed over to the child on attaining eighteen years of age;

(ii) Free education;

(iii) Free medical and health care facilities;

(iv) Free food, lodging and clothing;

(v) Free travel by road, railways or by air;

(vi) Free sports facilities; and

(vii) Free legal assistance.

Establishment of orphan homes.

4. The appropriate Government may establish and maintain orphan homes at accessible places in each district which shall have such facilities as may be prescribed for orphan child.

Measures for publicity, awareness for welfare of orphan child.

5. The appropriate Government shall take all measures to create awareness amongst public about rights of orphan child and give wide publicity to the provisions of this Act by organizing seminars, symposia, lectures and conferences.

Central Government to provide funds.

6. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Act to have overriding effect.

7. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of other laws.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with this Act.

Central Registry for Orphans.

9. (1) The Central Government shall establish maintain and operate a Registry to be known as the Central Registry for Orphans, for implementation of "Maa Mamta Scheme."

(2) The Registry shall contain such details of every orphan child as may be prescribed.

Power to make rules.

10. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or

both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State legislature.

STATEMENT OF OBJECTS AND REASONS

An orphan child is deprived of love, care, respectable upbringing and security, which any child with biological parents naturally inherits.

2. An orphan child is the most deprived class of people both materially and emotionally. Hence, the Government of the day has to step in with motherly love, compassion and care for these children and formulate a "Maa Mamta Scheme".

3. The proposed Bill seeks to provide every such rightful needs that an orphan child will require to become a respectable contributing adult of the society.

4. Therefore, the Government should provide compulsory social security to the orphan child. There should also be provision for financial security, education, food lodging and clothing along with medical care for the orphan child and they should be given protection against ill-treatment and exploitation.

Hence, this Bill.

SHANTA CHHETRI.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for social security to orphan child, monthly bank savings for child welfare in future, free education, food, clothing and lodging, medical and other healthcare facilities, free travel and free legal assistance may be provided to orphan child. Clause 4 provides for establishment of homes for orphan child. Clause 5 provides for measures for creating awareness among public about the rights of orphan child. Clause 6 provides for payment of adequate funds to the States for carrying out the purposes of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated fund of India.

It cannot be estimated at this stage as to how many orphan child will need assistance from the Central Government. However, an annual recurring expenditure of about rupees nine hundred crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of about rupees seventy crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the appropriate Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of detail only. Therefore, the delegation of legislative power is of a normal character.

XXX

BILL NO. LXIV OF 2022

A Bill to provide for the welfare of traditional sculptors, artists and artisans of Darjeeling Hills area belonging to the Gorkha community and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy Third Year of the Republic of India as follows"—

1. (1) This Act may be called the Gorkha Sculptors, Artists and Artisans of Darjeeling Hills Welfare Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "artisan" means any person belonging to the Gorkha community engaged in making useful, decorative or artistic items manually from leaves or weeds or bamboo or any other material by traditional means in Darjeeling Hills area for earning his livelihood;

(b) "artist" means any person belonging to the Gorkha community who earns his livelihood by performing arts including music, dance, drama, play, singing to entertain public or displaying of his paintings or artistic skill to public in Darjeeling Hills area;

(c) "Board" means the Gorkha Sculptors, Artists and Artisans of Darjeeling Hills Welfare Board set up under section 4;

(d) "Fund" means the Gorkha Sculptors, Artists and Artisans of Darjeeling Hills Welfare Fund set up under section 3;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "sculptor" means any person belonging to the Gorkha community engaged in carving of statues or making of decorative pieces or any other useful items from clay, cement, stone or any other material in Darjeeling Hills area for earning his livelihood.

Setting up of
the Gorkha
Sculptors,
Artists and
Artisans of
Darjeeling
Hills Welfare
Fund.

Setting up of
Gorkha
Sculptors,
Artists and
Artisans of
Darjeeling
Hills Welfare
Board.

Functions of
the Board.

3. (1) The Central Government shall set up a Fund to be known as the Gorkha Sculptors, Artists and Artisans of Darjeeling Hills Welfare Fund.

(2) The Central Government and State Governments shall contribute to the Fund in such proportion, as may be prescribed.

4. (1) The Central Government shall set up a Board to be known as the Gorkha Sculptors, Artists and Artisans of Darjeeling Hills Welfare Board for carrying out the purposes of this Act.

(2) The Board shall consist of following members, namely:—

(a) the Union Rural Development Minister who shall be its Chairperson, *ex-officio*;

(b) five members representing the Non-Governmental Organisations working for the welfare of sculptors, artists and artisans in rural areas of West Bengal, to be appointed by the Central Government; and

(c) five members representing the sculptors, artists and artisans in rural areas, to be appointed by the Central Government.

(3) The salary and allowances payable to, and other terms and conditions of service of, members of the Board shall be such as may be prescribed by the Central Government.

5. (1) The Board shall administer the Fund for the welfare of Gorkha Sculptors, artists and artisans of Darjeeling Hills Area.

(2) Without prejudice to the generality of the foregoing provision, the Fund shall also be used for.—

(a) payment of compensation to the next of kin of the sculptors, artists and artisans in the event of death during work;

(b) payment of premium for life insurance;

(c) payment of old age pension;

(d) payment of disability allowance;

(e) provision of free health care facility to sculptors, artists and artisans and their family members;

(f) housing facility at subsidised rate; and

(g) financial assistance to sculptors, artists and artisans for production and marketing of their products and organization and advertisement of events.

6. The Board shall submit every year a report, in such form and manner as may be prescribed, of its activities to the Central Government. Annual Report.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Gorkha Sculptors, Artists and Artisans working in the Darjeeling Hills areas are living in a miserable condition. The benefits of development have not reached them. In the age of globalisation and information technology, it has become very difficult for these people to earn their livelihood.

2. Several generation of these Sculptors, Artists and Artisans have spent their whole life to keep alive these traditional arts and for providing other useful articles and entertainment to the community. Despite public recognition, these people are not able to meet the both ends due to meagre income.

3. In Hilly areas, the traditional folk arts are popular means of entertainment. But due to lack of awareness and proper publicity and lack of central government support, it is increasingly becoming difficult for them to earn their livelihood. Inspite of hardship, these people are engaged in preserving our traditional art. Government should come forward to provide assistance to these folk artists so that they can lead a dignified life.

4. In view of the miserable condition of these artists, it is the duty of the Government to provide social security and other financial assistance to them by formulating and implementing appropriate policies for their welfare.

5. The Bill seeks to achieve the above objectives.

SHANTA CHHETRI.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Fund to be known as the Gorkha Fund Welfare. Sculptors, Artists and Artisans of Darjeeling Hills. Clause 4 provides for setting up of a Board to administer the Gorkha Fund for the Welfare of Sculptors, Artists and Artisans in the Darjeeling Hills area. Therefore, the Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of rupees fifty crore. A non-recurring expenditure of about rupees Ten Crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XXXI

BILL No. LXXXIX OF 2022

A Bill to guarantee the delivery of services within specified time limits to all citizens, the publication of the citizens' charter and other disclosures by all public authorities, the establishment of digital portals and facilitation centres for service delivery, and the processing and monitoring of grievances related thereto; to provide for the establishment of Grievance Redressal Authority to ensure accountability and prompt remedy for denial of services and the establishment of a National Grievance Redressal Commission to hear appeals and prescribe social audit standards for all public authorities and for matters connected therewith or incidental thereto.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Guaranteed Delivery of Public Services and Accountability Act, 2022.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by a notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "action taken report" means the report provided to the complainant under clause (e) of sub-section (2) of section 3 and certified by the Grievance Redressal Officer;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "Authority" means the Grievance Redressal Authority constituted under section 14;

(d) "Centre" means the Integrated Digital Centre notified under section 8;

(e) "Commission" means the National Public Grievance Redressal Commission constituted under section 23;

(f) "Chief Commissioner" and "Commissioner" mean the Chief Commissioner and Commissioner appointed under section 24;

(g) "Citizens Charter" means the citizens charter published under Section 4 containing particulars provided in Schedule I;

(h) "competent authority" means the Head of the Department of the Central Government or any public authority;

(i) "Complaint" means a complaint lodged under section 10 in relation to,—

(i) any failure in the functioning of a public authority or violation of any law, rules, or schemes currently in force;

(ii) any grievance relating to, or arising out of, a failure in the delivery of goods or provision of services notified by the Central Government; or

(iii) any violation of duties and obligations upon public officials responsible for delivery of goods or rendering of services under this Act;

(j) "Council" means the National Public Service and Accountability Council established under section 35;

(k) "electronic mode" includes any method, process, or application to deliver any service electronically;

(l) "electronic service delivery" means the delivery of services through electronic mode including the receipt of complaints, forms, and applications, issue or grant of any license, permit, certificate, sanction or approval and the receipt or payment of money;

(m) "Grievance Redressal Officer" means a Grievance Redressal Officer appointed under section 9;

(n) "Grievance Redressal Mechanism" means the mechanism for redressal of public grievances as established under the Act;

(o) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(p) "prescribed" means prescribed by the rules made under this Act;

(q) "public authority" means any authority or body or institution of self-government established or constituted,—

(i) by or under the Constitution;

(ii) by any other law made by the Parliament;

(iii) by notification issued or order made by the appropriate Government, and includes,—

(a) body owned, controlled or substantially financed; or

(b) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government; or

(c) an organisation or body corporate in its capacity as an instrumentality of "State" as defined under article 12 of the Constitution and rendering services of public utility in India; or

(d) a Government company as defined under the Companies Act, 2013; or

(e) any other company which supply goods or render services in pursuance of an obligation imposed under any Union Act; or

(f) under any licence or authorisation under any law for the time being in force or by the appropriate Government; or

(g) by an agreement or memorandum of understanding between the Central Government and any private entity as Public-Private Partnership or otherwise;

(r) "public hearing" means the "Jan Sunwai" conducted at such levels and in such frequency specified under Section 11;

(s) "service" means all the goods and services, entitlements, benefits, including functions, obligations, responsibility or duty, to be provided or rendered by a public authority;

Explanation.—For removal of doubts, the expression "service" shall include the rights guaranteed under this Act and the duties and obligations of public authorities and officials thereof.

(t) "service provider" means any individual, agency, company, partnership firm, sole proprietor firm or any other body or agency which has been authorized by the appropriate Government to offer services;

(u) "social audit" means audit conducted under section 39;

CHAPTER II

RIGHT TO SERVICE

3. (1) Every citizen shall have the right to service and redressal of grievances in accordance with provisions of this Act. Right to Service.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the right to service shall include the right to:—

(a) be informed of services provided by every public authority and the obligations and duties of public officials in relation to delivery of service;

(b) delivery of service within the stipulated time limit;

(c) submit grievances and demands relating to delivery of services;

(d) an opportunity of public hearing on a complaint;

(e) an explanation of decisions on complaints in the form of action taken report;

(f) receive compensation for failure in delivery of service;

(g) independent adjudication of appeals;

(h) demand protection against victimization;

(i) receive compensation for injury or harm suffered; and

(j) access records pertaining to delivery of goods and provision of services, budget, expenditure, and audit statements through integrated digital platforms and such other means notified under this Act;

(3) The Central Government may, by notification from time to time, notify services to which the provisions of this Act shall apply:

Provided that the services rendered under any law, rules, or schemes currently in force shall be deemed to be notified.

CHAPTER III

CITIZENS CHARTER AND DUTIES AND OBLIGATIONS OF PUBLIC OFFICIALS

Citizens' Character.

4. (1) Subject to other provisions of this section, every public authority shall publish a Citizens' Charter containing particulars specified in Schedule I and in such manner as may be prescribed.

(2) The public authority may consult such officials, experts, stakeholders, and persons for inputs in preparing and revising the Citizens' Charter.

(3) The public authority shall publish the draft Citizens Charter, or amendments thereto, to receive comments from relevant stakeholders in the manner as may be prescribed.

Functions and obligations of public officials.

5. Every public authority shall publish a statement of functions and responsibilities containing particulars specified in Schedule I for each public official responsible for delivery of services in such manner as may be prescribed.

Duties of Competent Authority.

6. Subject to any rules as may be prescribed, the competent authority of every public authority shall be responsible for,—

(a) updating and verifying the accuracy of the citizens charter and the statement of functions and obligations of public officials from time to time;

(b) publishing the draft citizens charter and receiving comments and feedback from stakeholders;

(c) disseminating the citizens charter and the statement of functions and obligations of public officials through electronic mode and such other means necessary to ensure wider publicity; and

(d) providing assistance to any person who is unable to obtain access to the materials.

CHAPTER IV

INTEGRATED DIGITAL SERVICES

Integrated digital portals.

7. (1) The Central Government shall establish such number of integrated digital portals as may be necessary to—

(a) deliver services through electronic mode;

(b) provide access to citizens charter of every public authority and statement of functions and obligations of public officials;

(c) track the details of beneficiaries of services and expenditure of public authorities;

(d) file complaints, special complaints, and appeals and tracking of status thereof;

(e) provide access to social audits; and

(f) such other matters as may be notified by the Central Government.

(2) The Central Government may, from time to time, notify appropriate standards for information sharing and management of integrated digital portals.

8. (1) The Central Government shall designate such number of centres in every State as Integrated Digital Centre to facilitate delivery of services and carry out other activities under this Act.

Integrated
Digital
Centres.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), every centres shall:—

(a) inform the eligibility for delivery of services and the process for obtaining thereof; and

(b) receive complaints, special complaints, and appeals and inform the status thereof;

CHAPTER V

COMPLAINT

9. (1) Every public authority shall, within one hundred and twenty days from the date of commencement of the Act, designate as many officers as Grievance Redressal Officers in all administrative units or offices under it as may be necessary to receive complaints and provide redressal of grievances in accordance with this Act:

Redressal of
Grievances by
Grievance
Redressal
Officers.

Provided that the Grievance Redressal Officer so designated is at least one level superior to the official in-charge of delivery of service and shall be deemed to have administrative control over the concerned official delivering the service.

(2) The Central Government shall constitute a panel to be known as the Panel for Public Hearing, at such appropriate level as may be specified, to afford an opportunity of public hearing in accordance with this Act.

10. (1) Any aggrieved citizen may submit a complaint,—

Lodging of
complaint.

(a) either orally or in writing to the concerned public authority; or

(b) either orally or in writing to the concerned official at the Integrated Digital Centre; or

(c) through the concerned Integrated Digital Portal; or

(d) through such other means as notified by the Central Government:

Provided that complaints submitted orally shall be reduced to writing by the concerned public authority or the public official at the Centre, as the case may be:

Provided further that the Grievance Redressal Officer or the official at the Centre, as the case may be, shall render all possible assistance to persons who are unable to submit the complaint in writing.

(2) The complainant shall be given an acknowledgment receipt containing the date of lodging such complaint, the details of the concerned Grievance Redressal Officer, and such other information as may be prescribed,

(a) within two working days from the date when the complaint was made to the concerned Grievance Redressal Officer; or

(b) immediately upon receiving the complaint made at the Centre or the concerned Integrated Digital Portal.

(3) Where a complaint made to a public authority is more closely connected with the functions of another public authority, the concerned Grievance Redressal Officer shall transfer the complaint or such part of it as may be appropriate to that other public authority and inform the complainant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than two working days from the date of receipt of the complaint.

Public hearing
of complaint.

11. (1) Every complaint lodged under this Act shall be listed before the appropriate panel within fifteen days from the date of lodging of the complaint.

(2) The attendance of the concerned Grievance Redressal Officer for each complaint shall be mandatory.

(3) The panel, on receipt of a complaint under sub-section (1), shall—

(a) examine the action taken report if made available by the concerned Grievance Redressal Officer;

(b) require the concerned Grievance Redressal Officer to inform the details of action taken, or proposed to be taken, in relation to the complaint;

(c) give an opportunity to the complainant to address the concerned Grievance Redressal Officer during open proceedings; and

(d) give suggestions and feedback to the concerned Grievance Redressal Officer for effective and expeditious redressal of complaint.

(4) The panel shall keep a record of minutes of proceedings and publish of the same in a manner as may be prescribed:

Provided that a copy of the said minutes is made available through designated portals within two working days from the date when the public hearing was held.

Disposal of
complaint.

12. (1) The Grievance Redressal Officer, on receipt of the complaint, shall endeavor to dispose of the same as expeditiously as possible, and not exceeding thirty days from the date of lodging:

Provided that the complaints relating to urgent matters shall be disposed of within two working days from the date of its lodging.

(2) Notwithstanding anything contained in sub-section (1), the Grievance Redressal Officer shall, in the order disposing of the complaint record,—

(a) the details of officers responsible for providing redressal and the cause for occurrence of the grievance if any; and

(b) findings of the complaint in the form of an action taken report containing such particulars and in such manner as may be prescribed.

(3) Where the Grievance Redressal Officer is of the opinion that any public official or service provider involved in the process of providing such service has failed to deliver the service without sufficient and reasonable cause, or due to willful negligence, it shall impose a lump sum penalty on such public official or service provider:

Provided that the penalty so imposed shall not be less than five thousand rupees and not more than twenty five thousand rupees.

(4) Where the Grievance Redressal Officer is of the opinion that any public official or service provider involved in the process of providing such service has failed to deliver the service without sufficient and reasonable cause, or due to willful negligence, it shall refer the matter to the competent authority to initiate disciplinary action against such public official or service provider.

(5) Where the Grievance Redressal Officer is of the opinion that *prima facie*, there exists a case of offence punishable under the Prevention of Corruption Act, 1988 or other penal laws, it shall direct the competent authority to register a criminal complaint.

13. The Grievance Redressal Officer shall, for the purposes of its functions under this Act, have the powers to,—

- (a) inspect the site of grievance with prior intimation to the complainant;
- (b) call for production of any document or other material object producible as evidence; and
- (c) receive evidence on affidavits; and
- (d) such other matter which may be prescribed.

Powers of
Grievance
Redressal
Officer.

(2) The Grievance Redressal Officer may seek the assistance of any other officer required for the proper discharge of his duties or may direct any other officer to take action to redress a complaint.

(3) Any officer, whose assistance has been sought under sub-section (2), shall render all assistance to the Grievance Redressal Officer seeking his assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be deemed to be a Grievance Redressal Officer for the purposes of this Act.

CHAPTER VI

CENTRAL GRIEVANCE REDRESSAL AUTHORITY

14. (1) The Central Government shall, by notification, establish an Authority to be known as the Central Grievance Redressal Authority to exercise jurisdiction in relation to:—

- (a) appeals against the orders of Grievance Redressal Officer;
- (b) special complaints or petitions lodged under this Act;
- (c) matters pertaining to penalties and compensation referred by the Grievance Redressal Officer; and
- (d) such other matters as may be prescribed.

Central
Grievance
Redressal
Authority.

(2) The seat of the Authority shall be at such place as decided by the Central Government.

15. (1) The Authority shall consist of—

Composition
of Authority.

- (a) a Chairperson, appointed by the Central Government in a manner as may be prescribed:

Provided that he shall be a person of proven ability and integrity having experience and knowledge of at least fifteen years in governance, law, development, economics, finance, management, public affairs or administration:

Provided further that the Central Government may appoint any officer from the All India Services as the Chairperson of the Authority;

- (b) a Secretary appointed by the Central Government, in consultation with the Authority, to exercise such powers and perform such duties as may be prescribed;

- (c) such number of other officers and employees of the Authority, as may be prescribed:

Provided that the Authority may appoint such consultants required to assist the Chairperson in discharge of their functions, on the terms and conditions as may be prescribed.

16. (1) The Chairperson of Authority shall hold office for a term of three years from the date of appointment and shall be eligible for reappointed.

Terms of
office and
conditions of
service of
Chairperson
and other
officials.

Provided that no Chairperson shall hold office as such after attaining the age of sixty five years.

(2) The salaries, allowances and other terms and conditions of service of the Chairperson, Secretary and the other officers and employees of the Authority shall be decided in a manner as prescribed.

Disposal of appeal.

17. (1) The Central Authority shall decide the appeal within a period not exceeding thirty days from the date when the appeal is filed.

Provided that the complaints relating to urgent matters shall be disposed of within two working days from the date of its lodging.

(2) The Authority shall have the power to make regulations to regulate its own procedure and subject to rules as may be prescribed.

(3) For disposal of appeal, the Authority, may:—

(a) call for the records;

(b) carryout an inquiry to ascertain the facts if deemed necessary; and

(c) identify the officers responsible for resolving the grievance and record the circumstances for occurrence of the grievance.

Directions of
Central
Grievance
Redressal
Authority in
appeals.

18. (1) Where the Authority is of the opinion that the concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service has failed to deliver the service without sufficient and reasonable cause, or due to willful negligence, it shall impose a lump sum penalty on such public official or service provider:—

Provided that the penalty so imposed shall not be less than five thousand rupees and not more than twenty five thousand rupees.

(2) On imposition of the penalty under sub-section (1), the Authority, may, by order, direct that such portion of the penalty imposed under the said section shall be awarded to the appellant, as compensation, as it may deem fit:

Provided that the amount of such compensation awarded shall not exceed the amount of penalty imposed under the said section.

(3) Where the Authority, is of the opinion that the concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service has failed to deliver the service without sufficient and reasonable cause, or due to willful negligence, it shall refer the matter to the competent authority to initiate disciplinary action against such public official or service provider:

Provided that the competent authority shall submit a report on the disciplinary and administrative action initiated against the concerned officer within thirty days of such communication from the Commission.

(4) Where it appears that the grievance complained of is, *prima facie*, indicative or representative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, or a violation of any other criminal legislation, the Authority, shall

(a) recommend the competent authority to initiate action as per the applicable law and seek an action taken report within thirty days.

(b) refer the matter to the Central Bureau of Investigation established under Delhi Special Police Establishment Act, 1946.

49 of 1988.

25 of 1946.

(5) Where the Authority, is of the opinion that the failure in delivery of service has caused undue hardship to the complainant, or because of willful negligence on the part of concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service, it shall grant such amount as compensation to the complainant:

Provided that the compensation awarded shall not be less than five thousand rupees and not more than twenty five thousand rupees.

Provided further that the compensation awarded due to willful negligence of the concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service, the competent authority shall recover the said amount from such officials.

(6) The Authority, may share feedback on the implementation of the public programs with appropriate Government and recommend measures for improved delivery of the same.

19. (1) In relation to subject matters specified in sub-section (3), any person may submit a special complaint :—

Special complaints.

- (a) in writing to the Authority;
- (b) in writing or orally to the concerned public official at centre; or
- (c) through the concerned integrated digital portal; or
- (d) through such other means notified by the Union Government.

(2) The complainant shall be given an acknowledgment receipt containing the date of lodging, the details of concerned Grievance Redressal Officer, and such other information as may be prescribed,—

- (a) within two working days from the date when the complaint was made to the concerned Grievance Redressal Officer; and
- (b) immediately upon receiving the complaint made at the Centre or concerned integrated digital portal.

(3) The subject matter of the petitions or special complaints may involve one or all of the following:—

- (a) any violation of provisions relating to the Citizens Charter and statement of functions and obligations of public officials;
- (b) inability to lodge a complaint under section 10 of this Act for any reason including the refusal by the Grievance Redressal Officer or the Integrated Digital Centre, as the case may be, to accept the same;
- (c) a failure to organize public hearings as per the provisions of this Act;
- (d) a demand for protection against victimization;
- (e) a demand for compensation for injury or harm;
- (f) a failure to conduct social audits as per provisions of this Act; and
- (g) such other matters as may be prescribed in rules.

20. The Authority, shall dispose off the special complaint or petition within a period not exceeding thirty days from the date lodged:

Disposal of special complaints or petitions.

Provided that the complaints relating to urgent matters shall be disposed off within two working days from the date of its lodging.

21. (1) The Authority in pursuance of section 20 may issue appropriate directions to the concerned functionary to redress the grievance expeditiously.

Directions of the Authority in special complaints.

(2) If the Authority, upon enquiry finds that any person is being victimized, or likely to be victimized, on the ground that such person or their relation has filed a complaint or appeal under this Act, shall,—

- (a) refer the special complaint or petition to the District Collector or Deputy Commissioner to consider the grant for protection against victimization; and

(b) refer the application to the competent authority for appropriate disciplinary action against persons responsible for victimization:

Provided that the applicant and the persons accused of such victimization are given an opportunity to be heard before issuing appropriate directions.

Explanation.—For the purpose of this provision, victimization includes any act of threat, harassment, or other harms received by the aggrieved person or members of their family in relation to any grievance under this Act.

- (c) a demand for protection against victimization
- (d) a demand for compensation for injury or harm;
- (e) a failure to conduct social audits as per provisions of this Act; and
- (f) such other matters as may be specified in rules.

Powers of the
Central
Grievance
Redressal
Authority.

22. (1) The Authority shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters while deciding matter pertaining to this Chapter:—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning of any public record;
- (e) issuing summons for the examination of witnesses;
- (f) reviewing its decisions, directions and orders; and
- (g) any other matter which may be prescribed:

Provided that the Authority, shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Authority shall have the power to regulate its own procedure.

5 of 1908.

(2) Where the Authority, is satisfied that there are reasonable grounds to inquire into the matter, it may take up the cause *suo moto* and decide the matter as if it is registered as an appeal or special complaint under this Act.

CHAPTER VII

THE NATIONAL GRIEVANCE REDRESSAL COMMISSION

National
Grievance
Redressal
Commission.

23. The Central Government shall constitute a Commission to be known as the National Grievance Redressal Commission for the purpose of this Act to hear appeals against orders made by the Central Grievance Redressal Authority.

Composition
of the
Commission.

24. (1) The Commission shall consist of—

- (a) a Chief Commissioner,
- (b) at least four Commissioners:

Provided that the decision to appoint excess number of Commissioners shall be determined on the basis of:

- (a) the number of appeals and revisions received by the Commission; and
- (b) the number of cases that a Commissioner is required to dispose of, as specified under regulations framed by Commission.

(c) such officers, employees, staff and personnel, appointed by the Commission, as deemed necessary by the Commission:

Provided that the Commission may appoint such staff in cooperation with the Union Public Service Commission or any other appropriate organisation in appointing staff and personnel:

National Emission Reduction Fund.

Provided further that the officers and employees so appointed shall discharge their functions under the general superintendence of the Chief Commissioner:

Provided further that the Commission shall recruit staff and officials on deputation, from various Central, State, Central and Local Bodies for a term of two years, and subject to maximum period of five years; or by direct recruitment, subject to rules prescribed by the Central Government in this regard.

Provided further that the Commission shall regulate these staff under over all supervision and control of the Government and general directions issued thereby in this regard:

45 of 1860

Provided further that the staff and officers of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

(2) The Chief Commissioner and Commissioners in sub-section (1) shall be appointed by the President of India on the recommendation of a Selection Committee consisting of,—

(a) the Chief Justice of Supreme Court, or their nominee, who shall be the Chairperson;

(b) the Prime Minister; and

(c) the Leader of Opposition in the Lok Sabha:

Provided that the Selection Committee shall consist of such persons of standing and having special knowledge and expertise in the matters relating to grievance redress policy, public administration, policy making and management, or in any other related matter:

Provided further that the Selection Committee shall select out of a panel of five eligible candidates for each vacancy finalised by the Selection Committee:

Provided further that the panel of eligible candidates shall be made public before it is placed before the Selection Committee:

Provided further that the Selection Committee may regulate its own procedure.

(3) Members of other statutory commissions at the central level may also be nominated as member Commissioners of the Commission, subject to the rules and procedures governing such other statutory Commissions.

25. A person shall not be qualified for appointment as a Chief Commissioner or a Commissioner of the Commission unless:

(1) he or she is, or has been an officer of the Central Government and has held the post in the rank of Secretary or Principal Secretary to the Government; or

(2) he or she is or has been a Judge of any High Court or the Supreme Court; or

(3) he or she is an eminent person recognized for his work towards public service in the area and who has worked for at least fifteen years in the social sector, in academia or journalism or other sectors relevant to the prevention or redress of grievances:

Qualifications of Chief Commissioner, other Commissioners, officers etc.

Provided that not more than half the members of the Commission at any time be from among those referred to in sub-sections (1), (2) and (3).

Provided further that the Chief Commissioner of the Commission shall be from those referred to in sub-sections (1), (2) and (3) above.

Terms of office and conditions of service of Chief Commissioner, other Commissioners, officers etc.

Resignation and removal.

Second appeal.

Disposal of appeals by Commission.

Orders of the Commission.

26. (1) The Chief Commissioner and the Commissioners shall hold office for a term of five years from the date he assumes and shall not be eligible for reappointment.

(2) The vacancies arising in the Commission shall be filled within thirty days of the same.

(3) The service conditions of the staff of Commission shall be regulated by appropriate regulations prescribed by the Central Government.

27. (1) The Chief Commissioner or Commissioners, as the case may be, at any time during the term, may resign from office, by giving in writing, to the President a notice of not less than thirty days:

Provided that in case of a Commissioner, a copy of the notice shall be forwarded to the Chief Commissioner.

(2) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the Chief Commissioner or any Commissioner if the Chief Commissioner or a Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Commissioner or as a Commissioner.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehavior or incapacity of the aforesaid Chief Commissioner or Commissioners.

28. (1) Any person aggrieved by an order made by the Central Grievance Redressal Authority, may prefer an appeal to the Commission.

(2) Every appeal under sub-section (1) shall be filed within a period of ninety days from the date on which a copy of the order made by the Grievance Redressal Officer is received by the aggrieved person:

Provided that the Commission may admit the appeal after the expiry of ninety days if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that pendency of an appeal shall not be justified as a ground to delay the delivery of service.

29. (1) The Commission shall dispose off the appeals within ninety days from the date of filing of such appeal:

Provided that when matters are of urgent nature, the complaint or appeal, as the case may be, shall be disposed off within two working days.

(2) The Commission shall have the power to make regulations to regulate its own procedure and subject to rules as may be prescribed.

30. (1) The Commission may issue such directions to redress the grievance to the concerned Grievance Redressal Officer or such other officials responsible for delivery of service.

(2) Where the Commission is of the opinion that the concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service has failed to deliver the service without sufficient and reasonable cause, or due to willful negligence, it may impose a lump sum penalty on such public official or service provider:

Provided that the penalty so imposed shall not be less than five thousand rupees and not more than twenty five thousand rupees.

(3) On imposition of the penalty under sub-section (2), the Grievance Redressal Authority may, by order, direct that such portion of the penalty imposed under the said section shall be awarded to the appellant, as compensation, as it may deem fit:

Provided that the amount of such compensation awarded shall not exceed the amount of penalty imposed under the said section.

(4) Where the Commission is of the opinion that the concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service has failed to deliver the service without sufficient and reasonable cause, or due to willful negligence, it may refer the matter to the competent authority to initiate disciplinary action against such public official or service provider.

(5) On receipt of matter referred under sub-section (4), the competent authority shall submit a report on the disciplinary and administrative action initiated against the concerned officer within thirty days of such communication from the Commission.

(6) Where it appears that the grievance complained of is, *prima facie*, indicative or representative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, or a violation of any other criminal legislation, the Commission, shall

(a) recommend the competent authority to initiate action as per the applicable law and seek an Action taken Report within thirty days.

(b) refer the matter to the Lokpal established under Lokpal and Lokayukta Act, 2011.

(7) Where the Commission is of the opinion that the failure in delivery of service has caused undue hardship to the complainant, or because of willful negligence on the part of concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service, it may grant such amount as compensation to the complainant:

Provided that the compensation awarded shall not be less than five thousand rupees and not more than twenty-five thousand rupees.

Provided further that the compensation awarded due to willful negligence of the concerned Grievance Redressal Officer or any public official or service provider involved in the process of providing such service, the competent authority shall recover the said amount from such officials.

(8) The Commission may issue appropriate advisories on the implementation of the public programs with appropriate government and recommend measures for improved delivery of the same.

31. (1) The Commission shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters which deciding matters pertaining to this chapter:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document or other material object producible as evidence;

Powers of the Commission.

- (c) receiving evidence on affidavits;
- (d) requisitioning of any public record;
- (e) issuing summons for the examination of witnesses;
- (f) reviewing its decisions, directions and orders;
- (g) any other matter which may be prescribed.

Provided that the Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Commission shall have the power to regulate its own procedure.

5 of 1908.

(2) Where the Commission is satisfied that there are reasonable grounds to inquire into the matter, it may take up the cause *suo moto* and decide the matter as if it is registered as an appeal under this Act.

Finality of Orders **32.** Every order passed by the Commission under this Act shall be final and binding on the public authority and their officials

45 of 1960.

Deemed to be judicial proceedings. **33.** All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code 1960 and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

Powers to enforce orders and directions. **34. (1)** Every order or direction issued under this Part may be enforced by Grievance Redressal Authority or National Grievance Redressal Commission, as the case maybe, in the same manner as if it were a decree or order made by a court in a suit pending therein.

(2) It shall be lawful for the Commission to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction.

(a) in the case of a public authority not falling under clauses (b) and (c), the place at which the main office of such public authority is situated; or

(b) in the case of an order against a public authority being a company, the registered office of the company is situated; or

(c) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain is situated, and

(3) The court to which the order is so sent, shall execute the orders as if it were a decree or order sent to it for execution.

CHAPTER VIII

NATIONAL PUBLIC SERVICE AND ACCOUNTABILITY COUNCIL

Establishment of the National Public Service and Accountability Council. **35. (1)** The Central Government shall establish a Council to be known as the National Public Service and Accountability Council to exercise its jurisdiction, powers and authority conferred under this Act.

(2) The seat of the Council shall be in New Delhi.

Composition of the Council. **36. (1)** The Council shall consist of the Chairperson and such other members as may be specified.

(2) The Prime Minister shall be the ex-officio Chairperson of the Council.

(3) Other Members shall include:

(a) Up to 2 Members from each of the other Statutory Commissions including

National Human Rights Commission, National Commission for Women, National SC/ST Commission

- (b) Upto 2 members from the Civil Society
- (c) Upto 2 members from the academia
- (d) Upto 2 members from the journalism
- (e) Upto 3 members from amongst the Head of Departments of line departments
- (f) Chief Secretary
- (g) Upto 5 members from amongst the Additional Chief Secretaries.

37. (1) The salaries allowances and other terms and conditions of service of the Chairperson, and the other Members of the Council shall be decided in a manner as prescribed.

Terms of office and conditions of service of Chairperson and other Members.

38. (1) It shall be the responsibility of the Council to:—

Functions of the Council.

- (a) co-ordinate between the Central Government and the Commission;
- (b) discuss the governance tracking report as prepared by the Social Audit Facilitation Unit and suggest measures of correction to ensure that indicators of good governance improve;
- (c) suggest measures of reform and improvement in public service delivery;
- (d) suggest best practices and new measures of administrative reforms such as 360 degree evaluation of public servants, reward system and assimilating public perception in governance etc;
- (e) serve as body that can suggest measures to remove difficulty in redressal of grievances under this Act; and
- (f) serve as the apex body for advising the government and the commission on measures to improve implementation of entitlements, redressal of grievances and any suggestions to make this Act more effective.

CHAPTER IX

MISCELLANEOUS

39. (1) The Council shall conduct the social audit in consonance with the Auditing Standards of Social Audit laid out by the Comptroller and Auditor General of India.

Social audit.

40. (1) Every public authority shall ensure that every Grievance Redressal Officer keeps a record of complaints made to it or appeal therein and the decisions on such complaints and appeals.

Annual Reports.

(2) Every public authority shall publish on its website, by the fifteenth day of every month or at such shorter intervals, as may be prescribed, a report mentioning therein—

- (a) the number of complaints received;
- (b) the number of complaints pending;
- (c) the number of complaints disposed of; and
- (d) such other particulars, as may be prescribed, for discharge of its functions under this Act.

Bar of
Jurisdiction
of Courts.

Protection of
action taken
in good faith.

Application
of other laws
not barred.

Power of the
Central
Government
to make rules.

41. No Court shall entertain any suit, application, or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

42. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made there under.

43. The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force.

44. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the officer or the authority to be designated as Designated Authority under clause (h) of section 2 ;

(b) other information under clause (g) of sub-section (2) of section 3;

(c) matters in relation to the Citizens Charter under sub-section (3) of section 4;

(d) matter in relation to the Integrated Digital Centres, under of section 8;

(e) the manner of inquiry into and redressal of grievance of the complaints received from citizens under sub-section (1) of section 10;

(f) the other means by which complaints may be made under sub-section (1) of section 10;

(g) the other matters for which the designated authority shall have power under section 5 and section 6;

(h) the number of Commissioners of the National Public Grievance Redressal Commission under clause (b) of sub-section (1) of section 24;

(i) the members of the Selection Committee under sub-section (2) of section 24;

(j) additional criteria in relation to selection of Chief Commissioner and the Commissioners of the National Grievance Redressal Commission under sub-section (2) of section 24;

(k) the procedure of investigation of misbehavior or incapacity for removal of the Chief Commissioners and other Commissioners of, the National Grievance Redressal Commission under sub-section (3) of section 27;

(l) the other matters for which the National Public Grievance Redressal Commission shall have the powers under clause (g) of sub-section (1) of section 31;

(m) the time within which the record of complaints to the public authority and the decisions on the complaints and appeals shall be published on the website and other particulars under clause (b) sub-section (2) of section 40;

(n) the time within which and the manner in which appeal may be filed under sub-section (3) of section 17;

(o) any other matter which is required to be or may be prescribed under this Act.

(2) All rules made under this section shall be laid, as soon as may be, after they are so made, before the Parliament.

45. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Removal of difficulties.

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Parliament.

THE SCHEDULE
CITIZENS CHARTER AND OTHER DISCLOSURES UNDER THIS ACT

I. Contents of Citizens Charter

- (1) The Citizens Charter shall enlist the services to be delivered by the public authority, definitive standards for their delivery, qualitative and quantitative parameters including time limits and other aspects, in a manner that the beneficiary is made known all aspects relevant to the enforcement of the entitlement.
- (2) Without prejudice to the generality of obligations provided under sub-section (1), the Citizens Charter shall include the following particulars,—
 - (a) the entitlements and public services to be delivered under any law, rule, regulation, policy or guidelines;
 - (b) the standards of quality, measure and method for delivery of entitlements and public services;
 - (c) the procedure for securing access to entitlements and public services, including a schematic representation of processes involved;
 - (d) the conditions, documents, forms, and such other requirements for receiving entitlements or public services;
 - (e) the time limits for assured delivery of entitlements and public services;
 - (f) the role and responsibility of public officials and all other persons responsible for delivery of entitlements or public services, including their name, designation and contact information;
 - (g) the procedure for filing complaints and redress of grievances, including the details of concerned Grievance Redressal Officer;
 - (h) the time limits for action, enquiry, redress and disposal of such complaints; and
 - (i) any other information necessary for efficient and time bound delivery of entitlements and public services, as may be prescribed.

II. State of Functions and Obligations of Public Officials

The statement of functions and obligations of public officials shall provide the following matters, namely:—

- (a) the designation and contact details;
- (b) the description of role and responsibility in discharge of public functions;
- (c) the powers, duties and such other control exercised in delivery of entitlements and public services; and
- (d) the duration of work, timing, holidays and places of work.

III. Statement of Budget and Expenditures

- (1) Within fifteen days from the beginning of financial year, every public authority shall specify a Plan of Expenditure in respect of the financial year.
- (2) Without prejudice to the generality of obligations provided under sub-section (1), the Plan of Expenditure Chart shall include—

- (a) sanctioned budget and actual amount received in the previous financial year;
- (b) sanctioned budget for the present financial year;
- (c) the breakup of allocations made to functions and activities of the public authority, including programs, schemes and policies.

STATEMENT OF OBJECTS AND REASONS

1. It is said that "democracy is the worst form of Government except all those other forms that have been tried so far".
2. However, even those who are skeptical of traditional representative democracy will admit that the average citizen is more concerned with gaining quick and fair access to government services, whether regulatory, developmental, or welfare services, than with the complexities of governance and politics or the myriad structures and levels of Government Departments.
3. The Government mechanisms that the citizens are most immediately concerned with must therefore be stable, transparent, effective, and continuous. We must prioritise putting the citizen at the centre of a contemporary public administration in India because of this.
4. India has complex institutional structures and a legal system that is supported by the Constitution's explicit and implicit references to the welfare state, allowing for the development of a governing framework that prioritizes citizens.
5. The concepts of good governance and citizen centric administration are intimately connected. Citizen centricity with the aim of ensuring citizens' welfare and citizens' satisfaction, is critical for any Government, local, state or national; which aims to provide good governance.
6. In view of the above, it has become necessary to provide for a National Guaranteed Delivery of Public Services and Accountability Act.
7. The National Guaranteed Delivery of Public Services and Accountability Act, 2022, *inter alia* makes following provisions:—
 - (a) To provide for Right to Guaranteed and Time Bound Delivery of Services to every citizen in the country.
 - (b) Mandatory Publishing of Citizens Charter by every Public Authority.
 - (c) Setting up of Integrated Digital Portal for delivery of services through electronic mode and Integrated Digital Centres in order to facilitate delivery of services.
 - (d) A Multi-Tier Grievance redressal mechanism in place with Time Bound redressal of grievances.
 - (e) Establishment of a National Public Service and Accountability Council to conduct among other things, mandatory social audits in consonance with the auditing standards laid out by the Comptroller and Auditor General of India.

The Bill seeks to achieve the above objectives.

DR. FAUZIA KHAN.

FINANCIAL MEMORANDUM

Clause 7 of the Bill *inter alia* provides for establishment of integrated digital portals and Clause 8 *inter alia* provides for establishment of Integrated Digital Centers.

Clause 9 of the Bill *inter alia* provides for establishment of Grievance Redressal Authority. Clause 15 *inter alia* provides for composition of the Grievance Redressal Authority and clause 16 provides for the terms of office and conditions of service of Chairperson and other officials of the Authority.

Clause 23 of the Bill *inter alia* provides for establishment of National Grievance Redressal Commission. Clause *inter-alia* provides for composition of the National Grievance Redressal Commission and clause 26 provides for terms of office and conditions of service of Chief Commissioner, other Commissioners, officers etc. of the Commission.

Clause 35 of the Bill *inter alia* provides for establishment of National Public Service and Accountability Council. Clause 36 *inter alia* provides for composition of the National Public Service and Accountability Council and clause 37 provides for terms of office and conditions of service of Chairperson and other Members of the Council.

This Bill, if enacted, would involve expenditure from the Consolidated Fund of India. However, it is not possible to access the actual financial expenditure likely to be incurred at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 44 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill.

The matters in respect of which the said rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

P.C. MODY,
Secretary-General.